

## Closed Caption Log, Council Meeting, 07/23/09

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Recorded On: 7/23/2009 9:00:00 AM

[00:59:33]

McCracken: Good morning, everybody, let's go ahead and get started. I'm austin mayor lee leffingwell. And I would like to welcome allan gramm to the podium for the invocation, allan, of course, is with global loaves and fishes, welcome, sir.

Thank you. Please stand. Heavenly father, I want to lift up to you these beautiful brothers and sisters that are elected to to be the stewards of this great city of austin, texas. I petition you, father, to infuse in each one of them your spirit. The gift of wisdom, so that each of their decisions will be made based upon life of experiences. On understanding, that they will be able to reach out and look out into our entire community to be able to see and understand the diversity of people that will live here. And the gift of counsel, that not only will each of them be great counselors, but in the time of decision that they will, too, seek out counsel within our community. The gift of fortitude, to be able to endure and -- the difficult decisions that they will make periodically. Here in our city. The gift of knowledge, that they will reach out and seek all the information that they need in order to make the decisions that they will need to make. The gift of piety, that they will be able to look to you, lord, and know that you are the creator, you are omniscient and fear the lord and this is a healthy fear. A fear that you are the creator, that all that we are and all that we have comes from you. That you are the alpha and the omega. And again, I will lift these brothers and sisters up to you. I will lift them up to you as our leaders. And I ask all of this in the glorious name of our father in heaven, amen.

Mayor Leffingwell: Thank you, allan. The.

The image on the card was -- was armstrong. The son of lance and christian armstrong, so enjoy that.

Thank you all.

Thank you for that. So I would now like to call to order this meeting of the austin city council, it is THURSDAY, JULY 23rd, 2009. And we are meeting in the council chamber, 301 west second street,

austin, texas. By the clock on the wall, it is 10:06 a.m. Before we get into the meeting, I want to first read in changes and corrections to the posted agenda. item 3, add recommended by the electric utility commission. 6, recommended by the electric utility commission. 13, will be postponed indefinitely. Item 14, strike the words in the sentence after the word property, strike the words civil and, on item 18 -- after the word program, add the phrase with 27.7% m.b.e. And 13.1% w.b.e. Parentheses, design phase, close parentheses, sub participation to date, period, recommended by the electric utility commission. 22, is -- is authorize execution of a contract and add the words after the initial shafffer, is that correct? Three f's?

Two f's.

Mayor Leffingwell: Two f's, concrete. 62, recommended by the electric utility 70, recommended by the electric utility commission, item 74, postponed until augu 6th, 2009. Item 124 after the word in the first sentence, after the word should read add planning commission recommendation top grant vertical mixed use, mixed use building, parentheses, v, close parentheses, district zoning. Those are the changes and corrections, anything else to add from the clerk? Our time certain items today will be a morning briefing at 10:30. On the austin water utility water conservation strategies. 00, we will have our general citizens communications. 00, we will have two briefings, first the austin water utility update and water treatment plant four. Second a presentation by the roma design group and hr and a consultants on the downtown austin plan affordable housing strategy and density bonus program. 00 we have our zoning matters. 30, live music and proclamations. Musicians will be anthony 00 we have our posted public hearings. Before I read a consent agenda, I want to tell everyone that I'm -- that I'm looking at a process to try to speed up completion of the consent agenda. We're going to be working with it for a little while, but today the plan will be as follows, over the next few months we will develop a very firm procedure. What we want to accomplish is get through the consent agenda faster if we can do that. Our staff members and citizens who are here in the chamber for particular items can get out and hopefully get back to work doing something more productive. What we're going to do from now on is to pull items off the consent agenda. If anyone on the council has questions from staff or anyone else, I am be asking you for those items here in a few moments. Or if there are more than one citizen signed up to speak on that item, we will also pull it from the consent agenda. And I want to point out for councilmembers, if you just have one comment to make, like we've done in the past, not a series of questions or asking for more detail from staff, you can go ahead and leave that item on the consent and make your comments after the consent agenda has been motioned for approval and seconded. I hope that's clear enough. We will stumble through it. I expect this to be a sort of a trial and error process at first, I hope at the end of the day we'll develop a process that gives -- gets us through the consent agenda a little faster than we have in the past.

Councilmember shade?

I have a point of personal privilege, you mentioned when you were sworn in you made the analogy to you being a pilot, we might go through some turbulence. I decided to make you feel more comfortable to bring small bags of pretzels for everybody [laughter] there are enough for everybody. [Laughter] his I

hope it goes well, we're glad to have you here.

Thank you, councilmember. What a way to start off the meeting. So far here are the items that have been pulled off the consent agenda. We have items 34, 56 and 95, those items are pulled because they will be discussed in executive session. 7 has been pulled for discussion by councilmember spelman, item 10 has been pulled for discussion by councilmember spelman. Item [indiscernible] pulled by councilmember morrison. 18 Pulled by councilmember spelman, 46 is pulled because there will be a staff presentation on that item. Items 53 and 54 pulled by councilmember spelman. Item 92 is -- is pulled by me, mayor lee leffingwell. Are there any other items that councilmembers would -- would like to pull? For questions?

Spelman: If we are pulling item 7, we need to pull item 8 as well, the two are associated.

Mayor Leffingwell: Okay. We will add number 8 to the items pulled for discussion by councilmember spelman.

Cole: Mayor, I also would like to -- to actually not pull, but postpone item 81, so that it can be seen by the resource management commission and then brought back to council.

Mayor Leffingwell: Okay. Did you want to pull it off the consent agenda or just postpone it until it's been heard by the resource management commission?

Just postpone it.

Mayor Leffingwell: Okay. We will show that as a consent indefinite postponement.

I do actually have a question about number 81 before it gets postponed, i don't know how we want to handle that.

Mayor Leffingwell: Well, we will just pull 18 from the consent agenda then. Anything else? And -- and from the clerk, do we have any other items on the agenda that have more than one citizen speaker signed up?

No, sir, there are none. I would like to make a correction to something said earlier. 3 was actually approved by the r.m.c.

Mayor Leffingwell: That's added to changes and corrections?

Yes, sir.

Mayor Leffingwell: Okay. 3 approved by the resource management commission.

Spelman: Mayor, a question.

Mayor Leffingwell: Councilmember spelman. Spelman.

Spelman: Is item 18 scheduled to be pulled or still on the consent agenda?

Mayor Leffingwell: 18 has been pulled. I'm not showing the items pulled on my computer here.

I will just do it using my notes. Okay, I will now read the consent agenda, items 1 through 6 for consent approval, items 9 through 12 two consent approval. Item 13 postponed indefinitely. Item 14 is consent approval per changes and correction. Item 15 and 16, item 19 through 33, Item 35, Through 45. Item 47 through 52. Item 55, item 56, item 57 through 73. Item 74 is postponed to AUGUST 6th, 2009, CONSENT Postponement. Item 75 through 80. Item 82 through the 91. Item 93 and 94. Item 97 through 110 and that's the end of the consent agenda.

Mayor?

Mayor Leffingwell: Councilmember spelman?

Spelman: You listed item 10 as being on the consent agenda, but i believe that I pulled that one.

Mayor Leffingwell: We will correct that to show item 10 as having been pulled from the consent agenda. My apologies.

Spelman: No worries.

Mayor?

Mayor Leffingwell: Councilmember cole?

96 Are the appointments to boards and commissions and the council subcommittees.

Okay. 6 as stated are the appointments to council subcommittees, boards and commissions. And those are approved per the written record. Those are submitted for consent approval per the written record and the -- the appointments to those commissions as well as the resolution for appointments to council subcommittees. I believe you all have those on your desks. I'm not going to read them because they are seven pages of appointments.

Mayor, just to make it clear, I think you said item 6 was the board and commission appointments.

Mayor Leffingwell: Item 96. If I said 6 that was an error. It will be item no. 96. So is there a motion to approve the consent agenda? Motion by councilmember shade, seconded by councilmember martinez and do we have any citizens signed up to speak? Let me see here. On item 37, one citizen signed up to

speak. Gus pena. Welcome, mr. pena.

Thank you, mayor leffingwell and councilmembers, councilmember riley and my old nemesis and opponent in 1997, councilmember bill spelman when I ran for council. Good to see you again, brother.

Good to see you, gus.

We expect the same expectations, even higher than when you were a councilmember back then. Going to hold you accountable for that. Mayor and councilmembers I'm here on item no. 37 and 38. I'm glad to be back over here. My boy lucio was at dell children's hospital knife different occasions, I was not able to be here the last two meetings. 37 Is very important. States the funding for school supplies, county commissioners court also. Any time take we can augment or increase the funding for school supplies or clothing for the students so they can participate and perform well in school is highly commendable and appropriate and very needful. 38 is -- is funding for -- for let me see for -- for housing, et cetera, other issues, case management. As you know a lot of homeless people on the streets, I hope these services are provided to the homeless people, especially so they can qualify for housing. It's very important to get a lot of the people off the streets. Mayor, I thank you very much, I also want to remind you of the help that lucio gave you when he was in the hospital. He was phone banking for you. So please don't forget that because he did -- even though he was in pain. But anyway I wanted to mention briefly of these two, I thank you for allowing me to speak, mayor. Thank you.

Mayor Leffingwell: pena, you are signed up on 38, also, is that your --

yes. 46, stuart hirsch.

Mayor, that's a pulled item. Do you want to wait for mr. Hirsch's comments until 46 is up for discussion?

Mayor Leffingwell: Thank you, we'll wait until it's up for discussion. Item 72 has one citizen signed up. But not wishing to speak. That's deliah mingo, doesn't indicate for or against, but we'll show you as signed up not wishing to speak on this item. 81 Has also been pulled from the agenda. I believe that's all that we have on the list. So -- is there any discussion from councilmembers? Any comments? Councilmember morrison?

Thank you, mayor. I wanted to mention on item 24 a go ahead for the great vet works that we're going to be doing on brazos streets. I wanted to thank the staff for the great work that they did. Recently they implemented a new piece of their process to do a historic resources check on any public works projects and I had the opportunity to ask them about what actually had been done. It was extremely thorough. I think we're going to get a great project out of it. Get some great sidewalks, also protect the historic resources that we have downtown. Thanks for the public works staff for that.

Mayor Leffingwell: Thank you, councilmember. Anyone else? Councilmember shade?

Shade: I -- I just wanted to make a special recognition that on number 96, which is where we make our

board announcements for board appointments, that just now we were at 125th anniversary celebration for the university medical center at brackenridge and we had a lot of folks who were very involved with the travis county health care district, which of course was approved by voters about five years ago. And one of the original board members of the management, of the board of managers has had to step down due to health reasons, not a stranger around these parts, very well known, rose lancaster, I want to formally acknowledge her great service. I know this evening the board of managers will be recognizing her more formally, but I didn't want us to simply replace her without making best wishes publicly for her, healthy recovery, quick and speedy recovery. She's been ill for a little while now, apparently at home and doing better. We are appointing somebody through this consent agenda named katrina daniels who has dedicated about 20 years of her life to making sure the most value I couldn't believe of citizens -- vulnerable of citizens have access to health care services. I think she certainly will be following in her stead, in her footsteps. I wanted to make sure to acknowledge that.

Mayor Leffingwell: Yes, thank you for bringing that up. Are there any other comments? Councilmember cole? Snooks mayor, I wanted --

Cole: I wanted to point 29 and 49, actually making a.d.a. Accessible improvements and landscape improvements. This is an unusual museum because it actually exists in the hyde park neighborhood, elizab ney museum. I'm pleased we're going ahead with the construct contract.

Mayor Leffingwell: Thank you, all in favor of the motion to approve the consent agenda say aye.

Aye.

Any opposed? That passes on a unanimous vote.

Mayor Leffingwell: We have about five minutes. We did get through at 10:25. So we will work on that. We'll start to work our way, let's see if we can get a couple of quick items that were pulled off the consent agenda before we go into our 10:30 briefing. T I anticipate item no. 81 Will be fairly short. Without objection we will 81, pulled by councilmember cole. If you would like to address that, councilmember.

Cole:.

Morrison: I have a question. I notice that it identified that there were no subcontracting opportunities available. I know that we have a lot of plumbers in town and a lot of small plumbing companies in town and I wondered -- just because we have such a focus now on makg sure that we keep people employed with the jobs that are available. If there was a reason that it ended up that there were no subcontracting opportunities. I guess that I just would have thought that we might have been able to craft this in such a way that it could have been spread around to various folks in town.

This is a new program that we are doing, actually modeled off of one that san antonio does. A direct install program for apartment complexes that have underutilized the change over to high efficiency

toilets. We wanted one vendor to do turnkey, go to an apartment complex, knock on the door, say we would install not only give you the toilets but actually install them kind of in a turnkey way. We wanted to keep that as an integrated service with the vendor that responded. We actually contacted 45 vendors and byron could give more specifics on the purchasing side. But I think for the turnkey purposes of this keeping this integrated as one service provider to make it easy for the apartment complexes to sign up, that's why we kept it at one vendor. Morrison: I know that we are going to have more discussions, I know many of our colleagues are interested in finding ways to keep local businesses healthy and craft our requests for proposals so that we do spread it around. I hope that we can use this as an example of how, you know, we might actually change things in the future. Keep folks in town participating as much as possible. Thank you.

Mayor?

Mayor Leffingwell: Councilmember martinez?

Martinez: I wanted to share the sentiments with councilmember morrison. We had a discussion at the council subcommittee of about how our green initiatives moving forward, we should be mindful to not conflict with the existing policies. Such as minority and women outreach. And in this case, you know, I certainly understand, you know, the efficiency of having, you know, one company or one entity doing the turnkey style replacement. But I think we need to keep our other values in minds as well. When we go out for things like purchasing items on a buy board. Again, we're bypassing all of the existing values that this council has imparted as it relates to minority outreach. I don't want us losing sight of that as we continue to move forward, things like water conservation measures and climate protection. I believe that we can accomplish all of those things and still maintain our core values that were in place prior to these existing policies. So I'm going to support the delay the councilmember cole because I want to continue to have this conversation in a little more detail.

I will get with staff and we can revisit it if we rebid it if there's subcontracting opportunities that may be available and kind of make a decision on that.

Cole: Mayor, i, of course share the sentiments of councilmember morrison and councilmember martinez i want to reiterate the special concerns that as we conduct water conservation and resource management that we are sensitive to the fact that the minority community needs to be included in any economic opportunities in connection with that and i know the special difficulty that has been had with apartments and the fact that a lot of the older apartments have not on a grand scale made these types of conservation measures. So the reason that i specifically want to send it back to the resource conservation commission is for them to give us some guidance, not only on this case, but also any concerns that they have for future cases that we might need to take up as a policy matter.

Understood.

Cole: So I will make a motion to postpone.

Mayor Leffingwell: To a certain date or indefinite or --

Cole: Well, I actually would like to visit with the members of the resource commission, including my own commissioner, to further understand the concerns that they have in the policy issues. So I guess that I will make age definite postponement and then we will bring it back for a certain date. But I don't predict that there were no subcontracting will be very long.

Mayor Leffingwell: Motion to postpone 81, is there a second? Second by councilmember morrison. Any discussion? All in favor say aye.

Mayor, mayor, mayor, you have a speaker. On item 81. David dewell.

Mayor Leffingwell: Thank you, david dewell? Welcome, you have three minutes.

Good morning, mayor and councilmembers. thank you for allowing me to speak. My company [indiscernible] based in [indiscernible] los angeles we have an office in texas as well. We are one of the two bidders for this contract. [Indiscernible] program. Basically we had -- we have submitted the lowest bid by an amount of \$80,000 annually for a four year contract, which would have totally over the duration save a total amount of \$320,000. After we had submitted the bid on time, we were told that our bid was disqualified due to the fact that 100 out of 16,000 toilets lacked -- lacked a model number. This was due to a clerical miscommunication which was rectified immediately upon notification. We have taken steps to resolve this. Our company has a proven track record with this program. We have installed over 1500 toilets in the past two months alone in austin. We are a minority-owned business and we are only using a local subcontractors. So to award this contract exclusively to one company that doesn't allow, you know, purchasing for multiple different parties doesn't allow the customers to have choice of toilets, it doesn't specifically enforce the use of the local hiring local plumbers, which we have exclusively only used local plumbing -- local plumbers in different organizations to -- to advance this cause, that's primarily what I want to speak about is that our bid was \$320,000 less and due to this, you know, less than half of one percent of the toilets lacking a model number which was rectified that resulted in disqualification, we think that -- I wanted to share the light on council to be aware of the fact that there were other qualified bids in addition to the one that had been accepted. In conclusion, I appreciate you guys hearing out these concerns. I just wanted to reiterate that the savings would have been \$320,000 over a four year period due to the fact that our bid had cost significantly less than the other bids. And again we have a significant track record here. We have installed 1500 in the past two months alone and our company was the largest toilet retrofitter in all of southern california in the past year. Thank you, I appreciate your time. I hope that with this new information it gives you time to review consideration of this bid and perhaps find a new way to rectify it or award it that allows for more opportunities and -- and spreads, you know, the result of what happens. Appreciate your time, thank you.

Mayor Leffingwell: Thank you, I assume that you're aware the motion on the table is an indefinite postponement of this. If those conversations can be had with the staff, please engage with mr. beal.



Councilmember morrison?

Morrison: I have two more questions for staff based on the citizen's comments. First of all, what is our process in terms of accepting bids? Do we do a check -- sounds like there was sort of a technicality in their proposal that it didn't meet the requirement and they were able to rectify that quickly. Do we have a process that allows that check to happen? In the time frame that somebody could get back and make the correction within the deadline.

Byron johnson, finance services purchasing officer. Yes, we do. In fact they were given an opportunity in which to provide us that information. Unfortunately, they had two products that would not meet the specifications. One of them they offered an alternative, which was an also low flow toilet instead of the het which was required so they were unable to provide that information to them, but, yeah, we do have a process. We did call it a process. They were unable to comply with those items.

Okay. And then the second question that I had relates to subcontracting opportunities, it's our documentation says no subcontracting opportunities were identified. But this gentleman said that he had identified subcontracting opportunities. How does that all work? How do we decide whether or not there are subcontracting opportunities? Sounds like there might be different privileges on that.

Rudy garza, assistant city manager. Councilmember, the process that we go through is our department of small minority business, we look at every purchase and contract going out to identify if in fact there's subcontracting opportunities. I think certainly I've not had a conversation with a citizen. My sense is that he's discussing subcontracting a single scope of work, which would be remove and install and subcontracting that out rather than his firm providing that service. Our ordinance when it speaks to subcontracting opportunities takes one job and has multiple tasks within that one project. Those multiple tasks would be in fact the subcontracting opportunities, but simply subing out a single scope of work does not fall under our ordinance.

I see. It actually has to do with the fact that we put this forward as a turnkey operation.

That's correct.

Mayor Leffingwell: Anything further? All in favor of the motion say aye.

Aye.

Any opposed? And that passes on a unanimous vote. 30 time certain for the briefing on water conservation strategies. Without objection, we will suspend this part of the agenda, come back to it later and go ahead and have our time certain briefing.

Good morning mayor and council again, rudy garza, our water utility director will be providing you a pretty comprehensive presentation on our water conservation and you should also have in front of you a copy of the conservation report. All of this is also available on the austin water utilities website for any

member of the public that would like to review this. I would like to very quickly kind of open up by saying our water conservation program the blueprint was set in 2006 by the city council in 2006 when they approved the water conservation task force report. Since then we've had a lot of successes. But even prior to that point the austin water utility has had a very strong track record for conservation. In fact one the austin water utility conservation staff persons worked directly with the texas water development board to develop what is now the state-wide best practices for conservation. As recently as june of this year, also a member of our conservation staff presented at the american water works association annual conference to discuss the -- what's happening in austin because in fact throughout the country we are recognized as a leader in our conservation program. I just want to open up with that. I want to turn it over to greg to give you our presentation for this morning.

Thanks, rudy. We have the presentation, also in your packets today there's a lot of material and there's including kind of a comprehensive written report on our conservation programs, so you can have some of that to refer to. I will mention a few of those items in my presentation today. Really, I want to do three things today. Review the current program how we are achieving results. Compare austin to other cities to get a sense of best practices, how austin compares with regards to those. Then talk a little bit about options of future expansion of our conservation program. Starting on the current side, first things first, why is conservation important for us, it's a value of our community. It helps us manage -- a finite resources in a -- in an area that's growing with population, helps manage our water supplies and postpone future payments for water to lcra, helps customers, lowers their bill for water each month. It's an environmental, helps with pumping and greenhouse gases, helps us manage our infrastructure on the water side. Key reasons why we need to stay focused on conservation. Like many utilities, our pattern of use is cyclic kel. In the summer months climbs. In the winter months we typically have a lower use, this is about a 10 year pattern of our water. You can see the effects even of wet year on our program back in 2007 which is kind of there to the right of the graph, where the peak was so much lower was what it was so wet in austin, that was before I was here. I kind of can't -- tight two words together, wet austin. That's what happened when it rained then peaked. We try to not only control how much total water but also try to manage peak days in the irrigation line. In 2006 we hired allan plumber, conservation strategies from across the nation. That kind of fed into the water conservation task force that the city council empanelled in 2006. Included key members at the time mayor wynn, mayor leffingwell, councilmember cole, councilmember riley on the planning commission at the time. Three others, it was kind of a panel that was charged with coming up with conservation strategies. They had eight meetings over four months. Took a lot of input from various stakeholders, subject matter experts, austin water staff and the public alike and formed their recommendations on expanding our conservation programs. In 2007 the council adopted the recommendations from the task force that formed our road map for future conservation efforts. The stated goal was to reduce the peak day demand by one percent per year, achieve at least a 25 million-gallon per day reduction in the peak day demands. Also created a citizens water conservation implementation task force as an advisory group to continue to advise the utility on the implementation and expansion of conservation programs and also recommended increases in budget and staffing in the water conservation division. This graph here, this chart shows really the core recommendations that they made. This is ordered in terms of highest conservation value to lowest. And really the first four or five of these account for the bulk of the

conservation program goals from the task force. One was what we called enhanced water use management. In essence irrigation, time and day of the week that you irrigate. Expanding our reclaimed water program using pricing structure to reduce water use and using water loss in our system, as well as mandatory toilet retrofit. Those four or five programs really accounted for the bulk of the conservation, but there were other programs identified for the utility to begin implementing. I want to focus on some of those top programs now. Back in 2008 we started our permanent year round restrictions on conservation. Any commercial or multi-family year round is limited on conservation. We also controlled the times. In '09 second, restrictions may 1st through sent 2nd based on the address and also hand watering times in that area. This is a kind of implementation success graph. The conservation task force projected in yellow line how much savings we get from this particular water scheduling change. In really 2008 they didn't have us programed for any savings as we were formulating the program. Those savings would increase over the next couple of years to roughly about 5 million gallons per day, slowly climb from there to about six. The two bars on the left hand there really indicates kind of early success here. We came out of 2008 much stronger in that program. Implemented it very rapidly. We believe that we achieved at least five million gallons per day and perhaps as high as nine million gallons per day in peak day demand savings from this one program. We think, though, that it will ultimately follow the same curve as the original projections. Kind of rapidly climb and then tail off. But we are pleased that we came out of the gate really strong on that and are achieving higher than expected results earlier. You know, intuitively i think we are probably maybe around the 7 or 8 savings. Kind of hard to tell. It's a bit of an art in terms of how much is attributable to any one change. But very solid success in terms of this program. Here's other indicator of why that program is working. Mondays used to be our peak date. We changed the irrigation schedule to make monday really a low day. You can see from this result that monday is now our lowest day. Again I think that's a sign of our community really embracing the water days and -- and complying and achieving the results that the task force wanted. On the reclaim side, we are investing heavily in reclaim and have for many years. Reclaim is really the building of a third utility. When I say reclaimed water using highly treated wastewater effluent for irrigation and cooling towers. We currently use about 1.6 billion gallons. We are expanding to high areas, university of texas. already installed a lot of purple pipe on their grounds working to get reclaim to them. We have our 51st street tank under construction if you have driven near the old airport area you have probably seen that tank. We just took bids on another major supply line down red river that would ultimately be the final segment to get that's really been our focus of our program is trying to get a very high use irrigator in the cooling towers in our reclaim program. This graph here I think shows the growth of the reclaim program over the last two years. Kind of has been climbing steadily. Our customer base has been climbing steadily. 2008 '09 Projecting about 8, continue being to climb as we add the university of texas and other customers. petersburg, in many ways austin is a national leader and even outstrips those communities. As an example, san antonio has more miles of reclaimed pipe, but a good chunk simply goes back to the downtown river walk. Where we are really targeting customers to try to shave our peak and reduce the demands on potable water. We are very proud of our ready re claim program and see a lot more benefit coming from that in the future. Another strategy identified was pricing. In essence if you price water more expensively, people will have an economic incentive to curtail their demand. Austin's pricing dark blue compared to other leading programs. San antonio, albuquerque, dallas, [indiscernible] california. Austin currently in our belief has the most aggressive

pricing structure in the nation. If you look at the 50,000 actual example, a typical residential customer using 50,000 gallons in austin would pay about \$346 compared to the other communities there. We are proposing that we increase this pricing structure with the budget that we submitted that you will review and deliberate on here. We are recommending a fifth block. We have four now. We are recommending a fifth block for residential use that would increase the cost of water beyond 25,000 dwals. So again we think that -- gallons. We think that we have a very aggressive pricing strategy and a solid economic incentive for people to conserve. We are doing a lot in terms of changing out toilets and having participation in irrigation audits. This compares last year to this year. I think on the free toilet side you can see that we are approaching well over 9,000 free toilets installed this year. Considerably higher than any year that we have ever done in the history of our program. We are expanding that. We just mentioned one of the expansions that we're doing, targeting segments that have underutilized our free toilet upgrade program. Apartment complexes will follow with other user groups. We are modeling another program off of san antonio. They have a program they call [indiscernible] for people, they go into parts of the community where there's lower income, haven't typically taken advantage of our programs, we are going to target programs where we knock on those doors get into those homes and help change out toilets and correct leaky plumbing. Again that helps not only us as a utility but helps those consumers lower their overall costs for water. Conservation jingle here to kind of wake you up in the middle of this presentation. We thought we would play it.

?? Have a conversation about water conservation, it's on us, you and me. Note ?? howdy, folks, this is ray benson with asleep at the wheel along with austin water utility and lcra asking you to reduce your water usage. Watch your water like it was your son or daughter, water conservation it's all up to you and me ????

just a flavor of our marketing. We have significantly expanded marketing. Tried to get more creative in terms of new media. Used the internet more. Targeted mailers. Really been stuck in a rut of traditional marketing, trying to diversify that including kind of tapping the live music side of austin. So again we think our marketing program -- more diverse and more effective, we're going to continued that trend in the future. Here's again a comparison after roughly, you know, the first year of full year of implementing the conservation programs, we thought that we would give you kind of a sense of where we are. The second column, task force, what they projected in 2008 that we would save. They projected we would save 18 million gallons of conservation and our analysis shows that we are well ahead. We think we came out of the blocks a lot stronger. 4 4 conservation savings in 2008. A factor of four or five greater than the task force. We got off to a fast, successful start. Also ahead of schedule on our efforts to reduce leaks and lost water in the distribution system among some of the other program elements there. In terms of a total projection, the green bar in this graph here indicates the projection of save thanks the conservation task force indicated. They put about 32 million gallons of potential savings on the table with the programs. With the expectation that we would achieve at least 25 million gallons of those savings. You know, some programs don't always work out as well as you thought or get delayed. Kind of again our blue bar is what we think the path that we are currently on. In particularly in 2008 we think that we are off to a better start. Realizing results earlier. I think that you see that in our use, some of our use patterns are down and i think that's an indication that our conservation programs are getting off to an earlier start. Again we think ultimately it will follow that same kind of diminishing curve as we get

these really, really impactful programs implemented. Additional programs that we do have less of an impact that we are really knocking out higher value or low hanging fruit programs earlier in the program. We think we will be more than successful in achieving the stated goal of reducing demand by 25 million gallons per day over the 10 year period. In fact I think we will exceed that a bit before it's all over. This is our 2008 pumpage pattern coupled with rainfall. This was our summer of 2008. Our peak pumping that year was 227 million gallons per day. Then you can see again how rainfall can influence that whenever you see the green or blue bars at the bottom that was a rainfall event you can see how quickly it can taper demand off. Even cloudy weather this week tapered demand off. You are sometimes shocked about how cloudy weather can get people to stop their watering. A little higher sustained demand between 250 and 215. We do have a peak pumping day, a little bit more on pumping, very similar pattern to what we saw last year in terms of the hot dry summer and in the pumping pattern. I again think conservation is working even, you know, with these really hot dry conditions that were happening. Kind of switching gears, that was a sense of how we're doing on that road map of conservation at the -- that the task force and council adopted. I thought that I would spend a few slides on how we compare to other cities to give you a sense of how that works out. When you think about compares sons to other cities, it's like compare gallons per capita per day. I'm going to talk about why that's a great internal measure but often not the best measure to compare yourself to other cities. [One moment please for change in captioners] take out our industrial, because industrial mix can vary a lot in terms of heavy users, as well as our wholesale and we think that's a better measurement. In fact that's the measure of the Texas water development board encourages. Right now, you can kind of see about where we are in terms of that. I think slightly under the 160 mark and we project that to fall over the next 10 years to below the 140 mark. So again, though, there's many ways to calculate this. Some communities don't have use, subtract or don't. Some argue that reuse is not conservation. Still using water, just managing peak on the potable system. There's a lot of ways to calculate it. One of the reasons it's fraught with problems when comparing to other communities. Here's a great example. Questions about San Antonio's per capita per day. We want to caution that again from a per capita per day measure, it's often a dangerous way to compare yourself to another community. I list a few examples from San Antonio. I don't mean by any way to say San Antonio is not a leader. They are a leader in conservation, we are learning from them and plan to continue that. But they are a different community. One, they are on Edwards's aquifer water. We are surface water. They have been in aquifer restriction for most of this year, the beginning of this year, the spring of this year, they immediately went to one day per week watering, where we've had mandatory watering two days per week. Also don't allow any outdoor fountains or water falls. Recently just within the last two weeks they went to stage two aquifer where they have further tightened up their watering times. Different water rights structure than we do. Significantly different customer mix. We have large chip makers, some of the solar related industry that are heavier on water use. Large multi-family base here. Their standard of living differences, a driver of water. Austin standard of living is 25% higher than San Antonio, our houses larger, more bedrooms, bathrooms, recreational. Typically more water use when you are a little more affluent. That's a good thing take you want to control. But having a higher standard of living is a good thing. As I mentioned many differences in formulaic calculations. We want to kind of discourage gallons per capita per day comparison. No that we don't think that we stack up well. But I think there's a lot of dangers because of the way the differences can improve between different communities. Other ways to compare, this is

hard to read, but we have this in your packet of information. We went through and listed all of the kinds of conservation programs that are available that are being implemented that are considered best practices and kind of checked off where austin compares to a lot of other leading conservation communities. I put this graph up here so you know what's in your packet. All of the kind of programs can implement and how austin compares. When allan plumber canvassed the nation, they concluded that austin is backing up some of the best in the nation. We recently did that update that was in your graph. We believe our programs, we are continuously improving agency that's our culture, but our programs are stacking up well with other areas. Where we stack up, not leadership but programs more aggressive than ours are desert city. Santa fe, albuquerque, more aggressive with regards to landscaping, in terms of disallowing turf grasses, paying to tear out your turf grass. Rainfall patterns are significantly different than ours, although this last year and a half perhaps not so different. The ability of their community to accept those things versus our community that some of the things that we would have to sort through if we wanted to start to do things like really limit how people can have turf grass for paying people to remove a landscaping more aggressively. Learning from this we have recently made some decisions that we are trying to direct more resources to the austin grow green, austin water [indiscernible] we think it would be appropriate for us to continue to increase our funding for programs like austin grow green, which helps encourage more native landscaping. We also compared ourselves to texas water development board municipal best practices, a checklist on their recommended best practices, I think again very well here. There's some programs with opportunities for improvement gray water programs are something that we haven't really done a lot in. Continue to investigate. Gray water is when you would use your washing machine water to water your grass, that you might change your internal plumbing to capture your washing machine water and then use it to water your grass. Or maybe sink water from the bathroom. There's limits on how you can do that. You can't use water from obviously your toilet or kitchen sink. But I think we might be able to make some opportunities available for folks to better utilize gray water at least learn how to use gray water. We also compared budgets. This was a comparison in 2006 when allan compared our conservation budget to other programs like saws and dallas and a few others. Our particular bar is light blue in terms of our program and staffing. Now we have significantly changed the formula and staffing and dollars because that's one of the questions that we get a lot. You are not directing enough resources to conservation. This shows from fiscal year 2005-2006 what is in our proposed budget to you for '09-2010 our budget in fiscal year 2005 was about 2.6, 2.7 million. Our proposed budget for '09-2010 is going to be about 6.9 million. We have significantly increased resources. Just operation and maintenance. Not capital programs. From a percentage perspective, that's one of comparisons that comes up. Utilities and operations budget for both water and wastewater, about 5 million, our 9% of that amount. So 4% has been thrown around recently. So from that perspective we're not too far away. If you just look at the water utility and all of its revenues, which fund not only operation maintenance but the entire capital program, that's about \$206 million, our conservation 3% of all water revenue. So again I think it just gives you a sense of context of -- of conservation have not taken advantage of things like toilet replacement. We want to do more for target segments, apartment complex, restaurants, other areas that have not utilized our free toilet program. We want to target disadvantaged and low income customers who may not be aware of these programs or feel that they may not have the financial wherewithal to take advantage of them. We want to make it easy for them to take advantage because we not only help ourselves but we help them reduce their bill.

That's an area that we want to see growing in the future. One of the programs, home efficiency program, hem, plumbers for people, same subsequent there. We talked about the multi-family direct install we are working to lift off the ground. We are working to do more to get information, we are currently worked on online water audit tool or customers with -- can get their data, working to get more information on their bills see how their water use kind of drops off. City is in the process of replacing billing system. Very large effort. Once that's completed that there were no subcontracting will provide additional opportunities to get data and customers in so they can make more informed decisions on water use. We're really ramping up our distribution system program loss where we repair brakes faster. As a matter of fact in the budget we submitted to you significant increases in the capital program as well as our staffing to respond to leaks and breaks and do maybe replacement work on our own. We think ultimately that hips us build a healthier distribution system with better flows, better liability and less leaks and loss. As far as \$250 per foot in the urban environment to replace water lines. When you are talking about doing hundreds of miles of replacement, the cost gets high very rapidly, very disrupt active. You put in context the austin clean water program, took us 10 years to do it, you can all know the kind of descruptions that created for the community. Don't underestimate what a major distribution system main replacement program will be in terms of cost and descruption. But worth doing. Other areas for exploration, again I mentioned gray water. Continues to work with the community on how that might fit into the program. We are currently formulating a request for proposals to help us get some feasibility work on automatic meter reading. Changing out to digital meters. Austin energy is doing that. Besides cost and other related savings, that goes to getting information to customers on more real time on how their water use is going. I'm expecting about 35 million more likely in the 50 million plus for conversion for amr for the utility. Another technology for us to use to help us better manage pressures and flows and hopefully more conservation. So in conclusion, I think our leadership pathway for conservation is wrapped around several strategies. One, we have to stay focused on the water conservation task force. Comprehensive solutions, well vetted we can't loose focus in terms of implementing those, we are going to stay on that, upcoming projects coming your way there. We want to expand those programs including some of the things that I mentioned in terms of underserved populations in technology. Want to continue to engage our community and in the covering vacation dialogue and continue our efforts to learn from others like san antonio and other leaders in the nation. A lot of mileage. A lot of this is written in your report. We will be happy to answer questions, I have my conservation staff with me. I want to follow up whatever means to help you with our conservation. Thank you for an excellent report by the way. To comment on the conservation program you described it early on, one percent per year program, i a lot of people think of it in those terms. Key word is that it's a 1% average program fo years. 10% Savings over 10 years. There are going to be ups and downs in that so -- so -- so to enter the graph as a -- at a certain point say 2008 or 2009 and say okay here's where we are now, we're going to say one percent every year until the program is completed, it's going to lead you to an inaccurate result. Because -- because you might be in a situation where -- where one year, one year you realize that -- that the implement programs and say two percent. You achieve 0% reduction in that year. You would still be on track. You are still in one percent per year average. So I think that's a point that's kind of widely misunderstood. I wanted to bring it up. Another thing, a big part of -- of conservation program that's still in the beginning stages is leak repairs. I want to add a little bit to your comments about what a challenge that is. I think we have about -- about 3600 miles of pipe. About a good chunk of that, again, I don't have

the numbers exactly right, but approximately 600 miles, is 50-year-old cast iron pipe, which is subject to failure, top -- as we have seen all over the city in recent years, spontaneous leaks occur with this pipe and you get quite a geyser out of it. The challenge there is very significant. I know that you are moving forward on that and on a lot of fronts. One of those is to try to determine where pipes are about to fail so you can get in there and fix that pipe before the leak actually occurs and the water loss is realized and the damage is done. So I just wanted to bring up those two things. Let other councilmembers have an opportunity to -- to ask questions or comment, if there are any. Councilmember morrison and then councilmember spelman is next.

Morrison: Thank you, thanks for that great presentation. I have a few questions. First of all, you were talking quite a bit about reclaim nation and mentioned also gray water. Have we given any thought to looking at incentives or mandatory requirements for doing that in these subdivisions, putting that kind of [indiscernible] in place in the subdivision?

A couple of comments. In terms of reclaim water, reclaim water comes from our wastewater plant. They are both located kind of in -- in the southeast austin area. So you have to expand the pipeline system out of those plans to -- to provide reclaimed water. So, you know, the growth that occurs in the community there's going to be a fair amount of growth in the northwest, the desired development zone, in the 130 corridor particularly in the northeast, what we call the kind of parmer, southeast area. We are many miles away from our plants in terms of those kind of growth corridors, so it's hard to get pipeline systems to get the water there. Many, many decades off. You can't just expend kind of a raw naked pipe, you have to build tank, pumps, it's really difficult to kind of kick-off new growth areas really far from our plant. Really our status on reclaim water is try to get high irrigation users, high cooling tower tank users, golf courses, university of texas and others. We see a lot more opportunity out there for those high users. We think that's a better strategy for the next at least five to 10 years to try to continue to target those very high users as opposed to trying to put a lot of money in straining out the system to smaller pockets of residential growth. On the gray water side i think there may be opportunities to look at plumbing code changes where you might require new houses to be plumbed for the possibility of gray water. If a consumer decides they want to use gray water for irrigating purposes their plumbing is set up for that. So I think, you know, that's something that we could continue to evaluate how we might continue to shape plumbing codes to facilitate that -- those kind of applications.

Okay. Sounds like some good work for the future. Also, you know, we will be doing comprehensive planning and I think water facilities and all needs to be part of that discussion. I think that the broader questions can certainly be addressed there. I notice -- I understand that we're going to be doing -- having a new billing system in place that's going to allow us to present to our customers their usage and more information. Relying on that. When do we think we might be able to enhance --

the answer in a couple ways, we are working on some answers. We are putting together i think perhaps roughly by the end of this year, the early next, I think we will be able to get a graph on the bill that will show people's water in a graphical format. Even in the existing billing system that's kind of a start to get more information. And we are working on this online tool where they can maybe suck data out of the existing billing system and use the internet to maybe get some information to customers. So we are



taking some steps to try to get that to them before the new billing system. In terms of the new billing system, I'm probably at a disadvantage on the timing of that. Multiple year implementation but I couldn't give you the exact dates. Probably maybe three years from now is when that is supposed to go online.

Morrison: Okay. Then I also have some questions. I know we went through a cost of service study a couple of years ago, I guess it was. Was it completed this past spring or the spring before. I wonder how that has played into where we are on that study and how it has played into our -- our rate changes. You said that the water utility is proposing rate changes again this year. [One moment please for change in captioners] had to do with the fact that we have a bit of a paradox and that is that we have a utility that where we need to conserve, we need to stop selling so much energy just because the state of the world today, but how do we have a new business model where it can actually thrive. Are we thinking that much into the future with regard to water? Because I think there is very much a parallel. We don't have the option of using as much water, individuals and all, but our utility relies on revenue from selling water, our city budget relies on revenue for selling water, so I think -- I just wanted to know if we're thinking in those terms.

It is a bit of a paradox you are in the business of selling the commodity.

Exactly.

But we are thinking of those things. One thing conservation does on the pricing side is add volatility to your structure that as you shift more of your revenue into these higher blocks, if you have a rainy year, you can see revenue really plunge. So I think one of the things and the utility is working on this and it's embedded in our budget, we think it would be prudent to try to have a little higher cash reserve in the utility. That we typically run 30 to 45 days on operating cash reserve and we think while it's been adequate, as we look into the appropriate it might be appropriate to carry higher cash reserves. Other things is looking at again probably a future where some fixed fees go up a little more, your base monthly fees as an example to cost of service we identified all of our fire protection fees, all the oversizing and storage that we do in our distribution systems for fire protection was all recovered through water use, how much you use. And we started kind of a shifting of that into more of the base rate, what you pay on your monthly standard charge as a way to make sure that we're starting to recover that. In the conservation product we gave to you, there's some really good appendixes and graphs and I know, councilmember spelman, you talked about data that is correct there is real good data in terms of how pricing has changed, how that's change a lower -- and we're going to have to continue just what you said, councilmember, watch those carolina of patterns so we're sustainable financially as an enterprise as we are successful in our conservation program. However, even with all that said, there are very important business drivers for us to implement conservation. Raw water is very expensive. We pre-paid I cra \$100 million for raw water that we believe will be good somewhere between 2020 and 2025 before we hit those triggers again. Once we hit those triggers, the raw water cost alone will be at least 10 to 12 million at current rates and as they raise rates that will go up. Conservation helps us avoiding that trigger. There are some really significant financial benefits to that so, you know, I think we fold those into our analysis of how it affects us financially also.

Morrison: All right. Thank you very much.

Mayor Leffingwell: Councilmember Spelman.

Spelman: Thank you, mayor. I would like to second the congratulations and also would like to thank you and your staff for having worked so hard the last few days to answer our questions and I would like to apologize in advance for not having had a chance to read this very thick document which was placed in my hands as I walked on the dais today. I look forward to looking at it and working with you and your staff to internalize this information and make sure all these questions are answered.

Thank you.

Spelman: This is just the first of what will probably be a fairly long conversation, but I'll try and keep this first part of this conversation at least as efficient as possible. Just a couple questions for you right now. One is something which I know you and your staff have spent a lot of time thinking about which is project what are your needs for potable water to be the next few years. I can think of several ways to do it, but to start off with, how do you do is that? How do you know how much potable water you are going to need in the next year's, 5 years, 10 years?

We included in your packet and I think all of you got the an appendix. One, it's current customer base, how much water they are using, how conservation is working, we program that into our process. We look at kind of historical trends. We used to look at a very broad historical trend. Since on the recommendation of a firm that we hired to review that shortened up that window to about I think it's 20-year, maybe 15-year window where we look at historical trends for water use. We also look at growth patterns. We work very closely with the city's planning department and demographers in terms of -- and demographers. We work with our industrial customers and other large customers in terms of how they are using water and their water patterns. So it's kind of a whole projection of things. We build in some -- I call it buffers, some kind of protections where we put like a 10% buffer on our water. You know, one of the things that's different with water than, say, electric is, if you run low on water, you can't go get it from the grid. You may get it locally, it's heavy, it's physical, so we are pretty cautious. There's a certain amount of caution in our projections to Russian water. And obviously when we run water and water production we want to make sure that our water systems are robust in meeting peak demand, system problems, the plant is down, recently we had a problem with the transmission system that our system has resiliency. So it's a combination of growth, past use patterns, what's happening with conservation as well as kind of a good dose of some prudent caution.

Spelman: I certainly understand the need for caution. So roughly what's going on is we have a projection for how many households, how many industrial customers, how many retailers and so on. We've got projections on all that stuff we get from the demographers. And all the other sources of that sort of information. Then we apply to that historical trends tempered with the recent past, for example, the success of your conservation program, to estimate what usage each of those groups are going to be making of our water on peak days and over the course of the year. Is that about accurate?

That's pretty accurate. You would have a graph that would go up and say it would be a graph without conservation. Then you add in what you expect your conservation to be and pull demand down on a peak day demand on what the likely effects are on conservation. As you will see this afternoon that was kind of the way he ultimately postponed the original start date for plant 4 was a 2011 start date and through the projections on conservation and the expected saves that originally kind of targeted the 2014 date for conservation. You know, and the other side of projections is weather. You know, weather patterns have profound effects on water use. The -- obviously things like recessions can have profound effects. It's not all science. In a way, you know. And if you look at our long historical water patterns, there are periods of time if you look like 10 or 15 years ago, there was a period of time where you would swear to gosh that water was flat. I mean there was like five or six years where nothing happened, it actually went down. If you would have made decisions on that five or six windows about where our water is going, you would have been in a different world because right after that population started taking off and woo, we swooped right up. There is professional judgment, we have our system planners and engineers and consulting engineers -- it's not just all art but there's a certain judgment element to some of this too.

Spelman: So your primary uncertainties you need to control for are population, industry, industrial mix and how much people are actually going to use meaning in part the success of your conservation programs.

Yes. I mean if you look at -- take plant 4 as an example. Plant 4 was envisioned 25 years ago and we're still working on it. These have very long lead times. You know, large transmission systems which plant 4 includes almost a third of the project is transmission, not plant. It takes very long lead times to create those transmission systems. Transmission isn't just about creating water, it's been moving water. We have to have enough water in the places we need it. You've got to get it to the areas that need it and that's where transmission comes in. So it's a combination of not only plant 4 how much water you need but getting that water as efficiently as possible to the areas that are growing.

Spelman: Given all these uncertainties, you certainly don't want to run out of water in the course of a day, you can pull stuff out of reservoir. But if that goes on two or three days we're kind of stuck and have to do something more drastic. I can certainly understand your need for caution and having to deal with all these uncertainties. We'll be talking more about what those are later on. One of the issues, though, is the extent to which your long-range projections have been affected by the recent success of the conservation program. Some people have been telling me the conservation programs have particular -- they have a shelf life to them. That in the beginning everybody gets excited, they only water on tuesdays and saturdays just like they are supposed to, but after a couple years they realize nobody is going to catch them, they forget, maybe the house sells and the new guys never get with the program and you see leakage in your conservation programs, they don't work so well. Has that been your experience, the experience of other cities sore it different than that?

I don't think I'm enough of an expert across all the other cities on what their long-term patterns have been. That is something I would probably have to research. I have heard talk to folks from tucson, they saw patterns similar to that, adoption of conservation programs and then fading. We don't plan on

fading here. We have a lot of folks out there very dedicated to conservation and seeing that we're successful. Although I think wrapped up in your question is a point that mayor leffingwell was making is that we pick the meaty, lowest hanging fruit for conservation right off the bat. The easiest was the water restriction. It was the stroke of a pen. Cross out one day and write in two mandatory. We got a big benefit. You can't assume because we got a big benefit the first year or two that you are going to get those huge benefits every year of the program. The diminishing curb. The number one goal is 5 to 10 million gallons a day. The number 12 program is .2. 2 program can be as hard as the 8 million-gallon program. We have to factor those kind of things in.

Spelman: But you prudently picked the cheapest, most effective or at least cost effective program to begin with and that's such great results so far.

Yes.

Spelman: As mayor leffingwell mentioned a few minutes ago, because our goal is 1% per year over a 10-year period that is correct doesn't mean every year it's going to be like clock work 1%. On the other hand, last year we got about 2.5%, didn't we? We got about 25% of our total 10-year goal in that year.

Yes.

Spelman: We'll know whether we are getting more than that during the course of the summer.

Yes.

Spelman: Okay. I'm interested in knowing how to compare among different means of conservation. One of them -- and conservation mostly talking about watering restrictions and things like that. But you also mentioned leak prevention or better system maintenance. And reuse. And I'm interested in getting a metric so that we can actually compare the cost per million gallon per day saved or -- I'm not sure what the right metric would be to compare among these three different means of saving water so we could figure out which of the lowest hanging fruit, which are the most cost effective ways of doing that. Can you help me with that?

Probably not from the dais. I would have to think what metrics to find the -- which conservation programs make the most sense in terms of savings in dollars. That might have been one of the things done through the conservation task force. We do track some dollar amounts of gallons saved. So I think, you know, probably could review some of that material and maybe sit down with you and puzzle that out a little bit more.

Spelman: Okay, well, another -- the next step beyond that would be if there is a way of comparing the cost of producing a gallon of water to the cost of not producing through conservation, reuse and fixing leaks the same gallon of water. Because from a customer's point of view, if you don't have to use it, that's -- there's going to be a cost either way and what we're trying to accomplish is the least cost

means of providing for the customers' needs. That will probably be part of a longer conversation as well. Embedded in this is the idea that you've got three classes of things that you are trying to do. And some of it is conservation, some of it is leak prevention and some of this is reclamation. And you've got to choose among the scarce resources available to your department, the city, how much effort to put into each of those three things. From your point of view, is it a good idea for us to think in the long term in terms of allocating more of the city's scarce resources in any of those three in a different way than we have in the past? Should we be spending more money on leak prevention, should we be doing something else, that sort of thing?

You are asking for just my opinion?

Spelman: Yeah. We'll be able to back it up once we get the metric. I'm just wondering what you are thinking.

Well, I would comment and we'll go into the -- afternoon, I think we should complete plant 4, cross the finish line and get plant 4 done. It's so much more than water capacity. It's the whole backbone, future of the utility for the next century and I think we're well poised to complete that and we should cross the finish line and we'll go into that this afternoon. I think there's a lot of opportunities in enhancing our distribution system. I've been director two years. I think we should replace more water mains. The conservation programs you get fire protection, better flows, better customer service. These things are going to continue to fail, it's going to get worse. We need to ramp up our main replacement program. That's not an easy thing to do. It's hard, gritty work. Reclaimed is coming along well here. I think our focus on high value customers that have, you know, huge water demands, growing our network, making a reliable network, getting , the airport on reclaimed water, that again finish our master plan. We put together a plaster plan, we're right in the middle of it, let's not lose track and get focused on bunch of other things. Let's fin he shall what we started and get that master plan completed. That would be my one minute recommendations on those three areas.

Spelman: That's what i asked for. I appreciate your opinion. We'll have a lot more to say about this over the next few weeks and months but i appreciate your willingness to crank up whatever engines you need to.

It's the great team behind me that did that.

Spelman: Great.

Mayor Leffingwell: Thank you. If I could, I would just like to follow up on a little bit of that because actually the task force addressed some of these issues and our goal on leak repair was to reduce the amount of water lost in the system by 30%. Very conservative goal, but we had a lot of discussion about how the cost of reducing water lost through system leakage is a curve. So if you -- we have zero leakage, you are spending a whole lot of money. But at the same time ours was to other end and it was very cost effective to target that 30% number and perhaps a little more as we go -- you know, we're still working on 30%. When we get to that point, we'll do that cost analysis to see about the cost of

expanding that number beyond 30%. So -- and the other thing, talking about reclaimed water, that was another issue we got into costs. We did consider costs in the entirety of the water conservation policy, and my recollection is that the analysis showed that providing reclaimed water to customers is about half the cost of providing treated water. And that's kind of borne out in the fact that all these folks are potential customers like the university of texas are really banging on the door wanting us to provide that to them because it's cheaper. And so that kind of program is going to be an easy sell. But I think the point is a lot of this information is available and it may be gathering dust on the shelf somewhere, but we covered most of this ground during the task force deliberations. Councilmember cole.

Cole: Thank you for this tremendous work and I was a member of the task force deliberations but I'm going to admit that the couple of questions that I'm going to ask you I just don't remember if you addressed them. First of all, I wanted to talk transmission main, and I'm very pleased that you are going to use that to cover the east avenue because we had considerable discussions on this council about that development of the former concordia site and also the hancock recreation center, and I happen to know that that area is becoming increasingly dense. But I was somewhat concerned that you did not make the recommendation for the u.t. Transmission main to actually go ahead and cover the capitol complex and downtown. And I was looking for an explanation for that because, of course, downtown is a growing area and is just a focus where we have put a lot of emphasis especially on our density, so I wanted to understand that.

Our plan is continue to extend that reclaim system that we are bringing to u.t. Into the capitol complex area and other downtown areas where it makes sense for us to hook up reclaimed water. I don't think this will be the last segment of a less expanding reclaimed water throughout the downtown area. I think this particular , but I think and it's probably on our master plan map that we would have future projects that would continue to expand that system. I could get more particulars from our reclaimed engineers on timing and some of the customers that were picked up in .

Cole: So even though the water conservation task force did not include this in its recommendation, it's part of your long-term plan.

Yes.

Cole: Okay. That's very good because i believe it should be. If I remember correctly, the mueller site reclaim tower actually is connected to the u.t. transmission main. Is that --

that's correct. The current tower that's being erected at mueller, and it took a while to get off the ground, there was a lot of controversy about the design of the tower and we've created an innovative design, that's under construction. There is also a pumping and pipeline system that's going to run along 51st street tank. That's under construction. main is going to take the system under 35 and then come down red river and but some of these other customers that you mentioned. We just bid that segment, the segment to cross 35 and come down red river, we just opened bids a few weeks ago, bids came in very competitive and that will be coming to council and starting construction i think before the end of this

year.

Cole: Okay. Thank you. We spent a lot of time on what was formally the land use transportation committee that we have renamed to the comprehensive planning and transportation committee talking about the burnett gateway area and the fact long term that we are planning for that to be essentially a new downtown. And I know that the university of texas has a small campus in that area and I'm assuming that some of those industrial users in the area are actually high users. Are there any plans to install or reclaim tower in that area?

No, that's one of the areas that we're pretty far from our current reclaim system. It's many miles to go. That would be something that would be very expensive, very difficult to do. I don't think we have any plans right now to try to get reclaimed water from our plant in our current system up that way. As a matter of fact, you mention that area, I think the total projection for that area WAS LIKE 47,000 L.U.E.s IN The future to 2040 and that's one of the key areas that would be served through transmission systems that we're building through plant 4.

Cole: Okay. So that's the plan. Okay. Thank you.

Mayor Leffingwell: Councilmember riley.

Riley: I want to add my voice to expressing their appreciation for the presentation today. It was very helpful information. And I just have a few questions. I'd like councilmember spelman expect to spend a lot of time absorbing the information, but for now I want to focus on a few basic things. I understand that the challenges that you described in comparing cities in terms of water consumption, but still I think many off sites have an interest in knowing how much water are we consuming in comparison to folks in other parts of the country especially with prolonged droughts there's a natural interest knowing on a per capita basis how much water we're using in. All the presentations I saw about different programs being offered across the country, i didn't find -- I didn't see that basic -- I didn't see numbers on that basic question, how much are we consuming. How much water are we consuming in comparison to other cities. Did I just miss that or are there numbers here or do you have those numbers? Any numbers to that effect?

We do have our per capita numbers. It was the graph.

Riley: Sure, ours, but what I'm suggesting is there's some interest in saying the numbers on a per capita basis in other cities. And I've always thought serving on the task force i thought the gallons per capita per day was about the best measure we've got in terms of comparing one city versus another in regard to water consumption. Is there a different measure that you think would be more appropriate to compare how much citizens in austin are consuming as compared with citizens in other cities?

Answer a he couple ways. As I described this presentation there's qualitative ways to compare in terms of the programs you are implementing --

Riley: I'm looking for quantitative.

Gallons per day --

Riley: Sorry to interrupt. I'm looking for some -- i still think there's some value in knowing, even given all those caveat, san antonio has a different water supply, they've got different industry, less multi-family, which actually should put us in a better position for water conservation than them, but still I think -- I'm still interested in seeing even with all those caveats I'm interested in knowing how much water are they consuming even with all those caveats. And there is that out there and we do know san antonio's gallons per capita per day, although I didn't see it in this presentation.

Well, what we don't know though is how that -- if the decision is that gallons per capita per day is the measure that you want to use to compare to other cities and you accept all the risks that goes with reducing that as a using that, pick two or three cities and get them together and we all come to agreement on exactly how you calculate gallons per capita per day, are you going to discount your wholesale markets? Are you going to discount your industrial base because that differs so much? That you have apples to apples. I think to just take what shows up in a newspaper article or a magazine or some power point presentation -- because even if you look at my utility, you will see a whole bunch of different numbers because there's so many different ways to calculate it. I think the thing to do would be to pick some sister cities, for lack of a better term, and say we're going to get together and all agree on how to calculate this and what's going to go into this so it's a more apples to apples comparison. Because right now your utility director, I do not believe just picking out of a magazine article san antonio's and another utilities and ours and comparing based on that glossy flyover is enough. It may be possible to get to that point, but we're not there too. Texas water development board is struggling with this too. They are trying to figure out how to work across that.

Riley: So your answer is we just don't know how much -- what our water consumption on a per capita basis among residential users, how that consumption compares with folks in other cities.

I think there's kind of a relative sense of this or a -- just -- there's a leading city, I think there's a sense of some relative to this, but again I think we need to probe this deeper before we could really say we're --

Riley: How about in terms of the conservation program budget? I appreciated the chart that shows the numbers for austin, the amount we're spending on conservation as percent of our total revenues. Do we have comparable figures for utilities in other cities?

Yes. In 2006 we did some comparisons for other budgets and I think that's in the cons vase report or the questions that we provided. We called a few cities including san antonio to get an update on their current budget and I'm sorry I didn't get that information in time for this meeting, but we're going to continue to follow up with them and hopefully nail that down so you have a better comparison.

Riley: Okay. And how about in particular with regard to water reclamation programs? Is there any measure that would allow us to make comparisons, would we speak in terms of volume of water



reclaimed as percentage of total retail sales? Would we speak just in terms of number of users? Is there an appropriate measure for that.

I think that we could puzzle out some measures. One you mentioned is volume is probably a pretty good indicator. Reclaimed water going to fill a river versus reclaimed water maybe that goes to a customer that offsets potable use, that might be two different animals, but we could probably puzzle out ways to do that and give you better comparisons in terms of reclaimed use.

Riley: That would be helpful. Finally I want to ask about enforcement on the water and restrictions that have been put into place. You mention that some tremendous gains were made just through a stroke of a pen and I recognize that, but I've also heard a number of concerns raised from folks doing their best to abide by restrictions and walk around their neighborhood and see a lot of neighbors who are watering on days when they are not supposed to be, they see water flowing into the street off their lawns, they see all sorts of things that -- that are actually disallowed under these restrictions. Can you describe the efforts we're making as a utility to enforce the restrictions that we put into place?

Yes. First, you know, just since i have the microphone, I'll make a pitch. If you see somebody wasting water or believe they are wasting water, call 311 and we're set up there. They will take the call and we'll immediately investigate. We've made it very easy for folks to call in if they see wasted water. We have increased staffing for checks on water waste. We've changed our hours where our staff works on weekends and after showers when people are watering early in the mornings or evenings to try to find folks watering on the wrong days. We issue warnings and most people comply after a warning. If they don't comply, we'll ultimately issue citations, although our experience has been most folks once they get a warning that they comply with water restrictions. We have a very active program to enforce the mandatory watering days and the warning system as well as a very easy way for folks to call in and report water waste.

Riley: Are there particular officers dedicated to that?

We don't call them officers. We don't use --

is that a line item? Do we have more investigators now than we had two years ago?

Yes.

Do they have a bigger workload? Do we have any matrix to assess our efforts on this type of enforcement?

Yes, we could give you information not only on staffing, how many warnings we've issued, how many citations. We can give you numbers on how many 311 water wares calls we -- water waste calls we get. We just start the 311 in august of last year so we don't have is first part of summer. But we could give you the numbers from august of last year and in terms of where we are and volumes of investigation

that we do. On that. So I think yeah, definitely, we could give you some numbers.

Riley: That would be great. Thanks very much.

Mayor Leffingwell: Further questions? Thank you very much. Excuse me, councilmember shade.

Shade: Well, I want to also echo the thanks you've heard from folks. I also want to thank my colleagues for the questions they are asking. I think it's incredibly important that we have this and I want to thank all the citizens who have been giving us suggestions for questions and I think that this is obviously such an important issue. I had a response to the memo before I got a memo from one of the groups out there so I found that to be helpful. And interesting at the same time. I have a few questions that haven't yet been asked. One is that I -- before I ask the question, I want to echo the comments that I guess I've heard from a couple folks about the importance of coming up with some way to have a better sense for return on investment that we're getting for the conservation efforts. The comparison to other cities and the measurement of whether or not we should be spending more on reclamation at this point or more on the public service announcements or more on water restrictions and that sort of thing, I think it's going to be really important as we move forward and make those determinations. I want to also just make a quick comment about the comment about the different lifestyles and it occurred to me when I saw the ray benson ad which I think is great but it did remind me about the -- the initial don't mess with texas campaign and how effectively the advertising agency that worked on that really looked at the market segment and determined it was generally white men driving pickup trucks that were the biggest litterers so they drove their ads to reach those folks. What I think I heard you suggest is the people who perhaps might be most affluent are also the ones most likely not to be thinking about water waste and I think we have to think about that and spend our marketing dollars as wisely as possible. Any way I can help with that I would like to. A couple questions I hadn't heard asked was really about the number of companies that are around town and probably outside of town too, but that help with -- do we have a program like in austin energy called power partners and can you tell me a little about that if we do that?

I'm not sure I understand. You mean companies that make products?

Like I've seen presentations from companies that have smart sprinkler thing. Do we partner, are we looking at that?

We have a lot of rebate programs if you install certain things although we don't really, I don't believe, have any programs where we, you know, refer a customer to a vendor or a local company and say use them. I would probably want to check with my conservation staff maybe with particulars on that, but I don't believe we do a lot in that area from what you are describing austin energy does with their local power partners.

I would like us to definitely look at that. When you talk to commercial users they are installing a lot of these items. They know who these companies are and I think it would be great for us to pass that along. And I was also going to ask about who our conservation partners are not necessarily from the private sector, but we've talked about lcra and I am just curious, you know, how do we work with them, what's

the nature, who are our conservation partners, what's the nature of the work that we're doing with them?

Our biggest partnership is with the Icra. We work extensive with the Icra on their conservation programs and harmonizing messages, share media related activities. As a matter of fact, Icra adopted the same days of watering for their customers as we did so we can kind of keep that message consistent and tailor our programs together. We jointly fund the water wise program. Internal to the city we team up with the departments i mentioned that grow green department and watershed protection, we team up with them and others. In terms of external partner that another public agency, Icra would be our largest partner in that regard. We sometimes fund studies, recently there was a study by a research group that wanted to study conservation methods across central texas and we i think helped fund part of that study, so we do smaller things like those -- those kind of things. Our center for environmental research out at hornsby bend has a lot of partnerships with folks interested in rivers and often we weave environmental messages into that. That's really not just conservation, that's a broader partnership with others across the region.

Shade: I think clearly as we move on and going forward that as we think about ourselves as a part of a bigger region that those kinds of partnerships are going to become more important and i look forward to seeing how those are going to impact our savings and our conservation efforts as well. I know we've talked a lot about the reclamation efforts and so I guess I'll just kind of wait and I have not read the full amendment that's been sent, but I'll share the interest that other folks have in getting more aggressive on that. Thank you.

Thank you.

Mayor.

Mayor Leffingwell: Councilmember martinez.

Martinez: I'll be brief, there have been a lot of comments made, but specifically as relates to one of them that councilmember shade made, I also hope we're reaching out to local firms and maybe not even local but regional firms who are offering these, you know, water conservation devices or different tools this the toolbox, but that we even contemplate doing it on a pilot program basis. So that we don't have this long lengthy procurement process. Because I have had some of these firms come to us and say, you know, we're so confident in our product, we're willing to do a pilot program at cost, at risk to us and if it doesn't do what we say, we walk away, you lose nothing, there's no risk. Those are the kind of aggressive measures that i think could help us identify products that really do work and help us achieve our goals a lot quicker than the normal track that we've been on. But secondly, I want to comment about what types of contemplations we're having in regards to outreach and education in the minority community. One of the known statistics is that in conservation and recycling programs, we tend to find lower income folks and folks of ethnic minority don't participate at as high a rate as other parts of the population. I'm also aware there's some stimulus dollars available to try to enhance and improve participation in our minority communities and I'm wondering if we're targeting those types of stimulus

dollars or what kind of thoughts we have in that regard.

Yes, first we did apply for stimulus dollars for conservation, particularly for some of the programs hat -- excuse me -- that we just were talking about earlier in council, the direct install program for some of our apartment complexes and other industries we applied stimulus dollars. And also I think a key outreach to our low-income areas that don't take advantage of some of these programs, maybe aren't exposed to some of the media marketing and the like is this what we call this help program, or what san antonio calls plumbers for people where we create this program where folks literally kind of mark it to that segment, knock on doors saying we cannot just give you a toilet and hope you install it, but we'll pay for the toilet, for the signals, examine your plumbing, fix leaks. I think that's one of the critical programs we can reach into some of these markets where people are under served and really help them be a part of not only our conservation programs but reducing their water and wastewater bills so I think you'll see more programs like that from us in the future.

Mayor Leffingwell: Anything else? It looks like we have about two minutes until our time certain for citizens communication. I don't see much point in trying to take something up in that time so we'll go ahead and begin with our citizens communication. It is approximately 12 noon now by the clock on the wall. First speaker is gus pena. Welcome, mr. pena.

Thank you, mr. mayor. Good afternoon, gus pena again. I'll read for the record my comments on the -- on citizens communication, to discuss the city budgees, implications on taxpayers. Please do not postpone the police academy class. We need more officers on the streets. One of the things I would like to discuss with you, mayor and council; that I requested a freedom of information act request on where the funding is coming for your lunch and supper. We have a lot of people in the community who are hungry, who are poor, who do not have food to sustain their healthy lifestyle. I have seen people other than councilmembers partake of your lunch and supper. I don't know where this practice started. In the interest of fair play and in the interest of being sensitive to the community, those who do not have food, i would ask you, mayor and councilmembers, look at this -- the lunch and how much money it costs for us taxpayers to provide lunch and supper for you all versus the poor people out there in the community don't have money to buy food. Even the food banks are suffering. So I would like to know how much money that is total and how it affects the budget and how it affects the taxpayers. The travis county commissioners court, we had a meeting and an agenda item arting property taxes. This issue I have been -- brought up to the council and the county commissioners court for the last seven, eight, nine years. Now that we know of east austin, it is one of the highest property tax rate region ins the city of austin. s, T.O.D.s, TRANSIT ORIENTED Districts are being proposed by entities and also capital metro is going to bring up property value and taxes for the people in east austin. My old house on east fifth street originally was valued at \$80,000, two bedroom, one bath. Very small. Because of the land it's over \$250,000. What does that do to people? It's taxing them out of housing. My boy will not be able to afford -- will not be able to buy a house because of these high property taxes, the high value of homes. Anyway, having said that, we ask for a performance audit and I believe the county judge and commissioners shot us down, but we brought up there are some people that do consider this -- the tcad, travis county appraisal district, needs to revamp its system and also see where we can improve the appraisal value, the system or mechanism to apraise property values. It's not equitable. 80 Or more

commercial businesses are not pairing their fair share of property taxes. That hurts of the city of austin, travis county and other entities. So anyway, a word to the wise, mayor and council -- [buzzer sounding] - maybe you would like to look into that because we are losing money on the city side and I've requested the information for how much it costs for lunch and supper. I don't think it's right being that we have a lot of poor people that don't have food.

Mayor Leffingwell: Thank you, mr. pena. Councilmember martinez.

Martinez: pena, i know just from speaking with kay, who does the ordering, the meals that we -- that are provided to councilmembers and staff are capped at I believe \$10 per person. You know, I don't know how many she buys, I believe it's 30 or 40 depending on how many staff are here.

Appreciate that. Briefly, mayor, I've seen people that are not councilmembers. I'm on a diet. I've lot 32 pounds, I need to lose more. Come on, guys, you all are eating at \$10 a pop. How much food can that buy for people that need them. They are starving out there. This is bad times. Thank you for your comments, look into it and you all can bring a sack lunch or something.

Mayor Leffingwell: Put us all on a diet, that's not a bad idea. [Laughter] the next speaker is rae mnadler.

The biggest news was the citizens tour of the ulrich water treatment plant that the austin water utility arranged for a group of us. It was fascinating to see one of our large tax funded municipal public works in action, a facility that's capable of pumping 167 million gallons of water per day. Of course, there's no time to get into the details of disinfecting, softening, coagulation, settling up and filtration that go to bring raw water from lake travis to our taps, but I did have some questions. The schematic you see on your screens was prominently displayed but we were told it was out of date. The fluoride feed has been moved from early in the treatment process, that's third from the left shown in white, to the very end, post-filtration. The change was made because a quarter of the flour ride whether injected at the front end was getting lost in the process and not making it to the distribution system. I found that very interesting. Where did it go? How is it disposed of? It's been fixed. 100% Now enters our water supply which brings up another question. What percentage of the water we pay hundreds of thousands of dollars to fluoridate each drinking water. I asked one of our tour guides who laughed and said probably a very small amount, unquote. In fact, the figure is around 1%. The rest of this pricy chemical is literally going down the drain with the bath water, the lawn runoff and so on to join the wastewater stream from which it reenters the environment where it could never be dumped directly. When I asked at what level of fluoridation the 100 million plus gallons of water pumped each day goes back into the river, I was told that was not the water utility's concern since it doesn't violate 's limit of four parts per million, which is unfortunately true. More about this outrageously limit another day and thank you.

Mayor Leffingwell: Thank you. Next speaker is louis kokernak. Louis kokernak. Okay. Anthony walker. Welcome, mr. walker. mayor and I want to congratulate you on new mayor and I wish you well and want you to know we definitely want to support you. I'm going to ask for a couple additional minutes because i had no intention on coming -- [inaudible] I'm really considering leaving the city of austin, you know, just

[inaudible] right now.

Mayor Leffingwell: In fairness to everyone else, please restrict yourself to three minutes.

Okay. Sure. I want to say on november 22, 1963, that's the day that john kennedy was assassinated in dallas, texas. I wasn't borned on his presidency but as leader and and president of the united states of america i have more respect for him than I do any politician because of the impact he made in america. But I want to say that austin, texas has a problem. But not only do austin, texas has a problem. Young black people in austin, texas has a problem. Why the lions roar and the [indiscernible] don't respond that's because they have lack of respect. Black leaders in city of austin are not getting enough respect from the young blacks males and females because what needs to be said is not being said. Some of the people who you all are sitting and dialoguing with, we're not a part of that inner circle. Y'all really want to say you are for the people, who are you really representing? In this city when you come forward and you really want to ask for help and a lot of things in the city, I want to address some of our own issues that are affecting us. When I look at some of the things that really affecting our community, we are not making good investments. You can go out in our community and with three or four mile raid yum and find five or six churches. The white white people in austin, texas are investing the hospitals, we're investing in churches. White people investing the malls, we're investing the churches. White people vesting in condominiums, we're investing in churches. Because they are investing in their community and their future generations. We can't get mad a lot of immigrants coming over here for a good life to leave. A lot of them made an impact. You see a year or two, [indiscernible] they got two, a business, lawn service, carpenter service because they are investment business. Because of the people you all are socializing and dealing with, they are not really concerned about a lot of our investments. A lot of african-americans in this city they are in a comfort zone. They got their nice house, their car, they dress well, but they are very comfortable so they are not respected in the community. Because y'all dealing with a lot of [indiscernible]. A circus lion is thrown for show. Some of the community leaders are not responding to loot of the issues that really affecting the black people in this city right here. And the way we're going right now, I can really say that the young black males and females in this city really are in a whole lot of trouble. When you look at the statistics, we're number one in h.i.v. Number one in dropouts. Number one in prison population. Because the young black males and females are not responding to the leadership in this city. [Buzzer sounding] we need change in this leadership. We need a lot of change. Until we have changing of the guard, then you are going to start -- let me close by saying this. I really do believe that the city of austin is focused on budget cuts, but the austin police department is one of the biggest departments in the city that waste a lot of taxpayer money. That little old exercise that operation they set up at walnut creek, that was only for show. They arrested drug dealers by the end of the day --

Mayor Leffingwell: Your time is up.

Ladies and gentlemen of the jury we did meet and it ain't closed for people sitting on the edge of their feet right now. We want you all to understand what they said. But ladies and gentlemen of the jury on a charge of high crime and misdemeanor in the shooting death, in the cold blooded murder [indiscernible]

how you found officer catana "-

Mayor Leffingwell: Your time has expired.

Thank you, mr. mayor. Get the real people that are going to make a difference. Stop dialoguing -- thank you and have a great day. [Cheers and applause]

Mayor Leffingwell: And i believe I skipped over inadvertently lauren ross. And my apologize. Welcome.

Thank you. Good afternoon, mayor and councilmembers. I'm here today speaking on behalf of more than 40 environmental organizations that came together to sponsor the eco change, exchange event A JUNE 25th. We want to congratulate you on your elections and I'm pleased to have the opportunity to speak to you on the first day of your terms as councilmembers. Hundreds of people showed up on june 25th committed to making austin a leader among sustainable cities. We also came to send a clear message to you that it's time that austin get serious about our choices within a context of economic and global disasters. As most of you did experience, june 25th was a great night of community, conversation, envisioning, but a lovely evening at city hall is the easy part of our tremendous task. We have to move forward with meaningful action. And we expect you as the austin city council to take on the critical challenges of climate change, peak oil, peak water, peak food, and their impact on the austin community. We are doing our part by participating and we expect you to work with us to radically reduce austin's water consumption, to construction an energy system that's based on renewable technologies, to make nutritious, organic, locally and sustainably grown food available to every single person in this community. To use our tax dollars to protect our water and preserve land and to assure every single new development in this city meets the highest standards of sustainability. We want a transportation system that the independent of the automobile. And particularly we want to provide every single austinite with a safe, clean, healthing living environment regardless of their race, class or which side of town they live on. We intend to bring you a full REPORT ON AUGUST 6th. We are working to set priorities based on the information that we got from citizens that night and we are working to understand their budget implications. We're going to bring you action steps and they are going to allow us to measure our success as a community and to hold each other accountable for our responsibilities in implementing those steps. Everyone in the leadership of austin -- eco exchange, I have to say when I say that, we're thought exactly sure who the leadership is. But one of the things we agree on is that austin must move quickly to select and hire a sustainability officer and that have smart sprinkler officer needs to have sweeping budget authority. We look forward to working with you in the process. [Buzzer sounding] we also agree that it is long -- I'm just going to finish that one sentence. Which isn't quite all that i had to say, but I want you to know that it is long past time for the city to use the affordable bond money to purchase pure casting, moves that toxic facility out of austin and be built the critically needed affordable housing. Thank you for your time and shouldering the responsibilities of this community. [Applause]

Mayor Leffingwell: Thank you, ms. ross. And carol anne rows kennedy. Carol anne rose kennedy. I thought I saw her working her way towards the front here. Welcome back. Pass them to the clerk,

please.

Welcome back, council. And thank you all for serving. Each and every one of you, congratulations for your new positions and the old ones and thank you. That's just how I was going to do it. Thank you. I'm carol anne rose kennedy. Mayor 2009 voting for jennifer gale. There's -- sorry. I sang this at the funeral. ?? There's a yellow rose in texas heading up to wisconsin, nobody especially loved her except her next of skin note. ?? We cried so when she left us, it broke our hearts and the next time that we meet again will be a piece of art ???? ?? she's the diamond of the desert, our passion on the hill, but austin when we make love, we think of jack and jill, and we soar into the heavens and we know we'll never leave till she hooks 'em back to texas, my vote goes on my sleeve ???? do I have 30 more seconds?

Mayor Leffingwell: You have one minute.

I can't get over it. There's -- there's 11 kennedys, I'm number three of nine kids. Five of us are dead. The next one is going to be a quorum, but jennifer gale's death, I can't get over it. It ain't right. The system failed. And I can't put my finger on what's wrong with it. But it's not right. That was a very senseless death. And when that happens, how am I supposed to get over it? I came here today to sing the song I made up for her at the funeral which it wasn't even probably her because it was freezing and I was crying and -- it's been seven months. It's just not right. [Buzzer sounding] she had my phone number. She could have called me. I could have come to the church and slept with her on the steps. And brought some blankets. It's just not right. And I don't know what to do. If any of you all have any suggestions?

Mayor Leffingwell: Thank you, ms. kennedy. Thank you for the flowers. Next speaker is jimmy castro.

Thank you, lee. Good evening, mayor leffingwell, councilmembers and mr. ott. I'm here to speak on my own behalf. I've served as a board member of the neighborhood association. I have slides to show you. I'm here to speak in opposition to the following budget cuts. First, do not cut -- first, do not cut the 11 of 26 summer playground programs. Do not cut love library funding or hours. Do not cut the summer job program for 750 teenagers. Do not cut the 2010 police academy cadet class. Do not cut funding for the lone star soccer club. Do not cut funding for west austin youth association. Do not cut funding for oak hill youth association. Do not cut funding for balcones youth association. Speaking as a proud parent and former volunteer whose daughter played at balcones little league, the budget cut proposal means balcones youth association annual expenditure would increase by \$50,000. That would double the annual operating budget and balcones youth association cannot afford it. When balcones youth association was founded in 1965, the city of austin agreed to provide utilities for the program if balcones youth association would build and maintain the facilities. In those 42 years through the impact of thousands of volunteer hours, balcones youth association has served thousands of children and made a significant impact for the betterment of all of austin. Balcones youth association has kept up their end of the bargain. Thank you, mayor leffingwell.

Mayor Leffingwell: Thank you, jimmy. Next speaker is david edrich. David edrich. Did I say that right?



Thank you. Hello, councilmembers. I am here to talk very briefly on the subject of a new billboard at south lamar near riverside. As most of you know from previous citizens communications sessions, there is presently a imposing billboard in front of a residential building affecting the quality of life and the character of the neighborhood at south lamar boulevard. It is directly the other side of lady bird lake within a block of the hike and bike trail. This is a new occurrence in austin. Billboards until now have not been erected with such proximity to homes before. To the new councilmembers, chris riley and bill spelman, if you have not heard of this recent billboard already, I am informing you of it now. I and the other owners and residents at the bridges are hopeful that the billboard will be taken down or relocated soon and are very thankful of the previous council's concerns and city staffers' efforts to assist us in this especially randy shade and laura morrison. And thankful of the current efforts still underway that is involved in this. And I would like to express appreciation for this. Thank you very much. For now I have nothing more to add on this subject except please continue your efforts to help resolve this conflict and to restore our homes and residential areas to its previous living quality. Thank you for your time.

Mayor Leffingwell: Thank you, mr. edrich. Final speaker today is bill oa akey.

Congratulations on your election and I am a former medical of the city of austin electric utility commission and I was a very active consumer advocate during the 1980s. And I got a bill passed in the legislature that clarifies -- can I stop and then -- okay. IN THE 1980s, I GOT A BILL Passed in the legislature to clarify property tax increase for residential homeowners, and I've got a lot of background in working with consumer issues. And the thing that concerns me the most about property taxes is the way it's explained to the public. The public is not really told what the true shortfall is, and so as a starting point, one of the first things i would ask is please do not publicize a shortfall that assumes property taxes would be raised to the legal maximum. If there is a shortfall, that should be expressed in terms of what it would take to have no tax increase at all for the average homeowner. And I think that's the very least you could do as a starting point. And this year I strongly recommend that you implement a zero tax increase. You may have achieved a \$30 million closing of a gap, but there's about another 12 million left to go to get us down to zero, and considering the state of the economy, I think that's absolutely necessary. The other thing I would strongly recommend is that you implement a strategy to deal with the long-term issue of property taxes. I have a piece of legislative -- a legislative initiative that I'm working with, senator kirk watson and representative donna howard and mark williams, the president of the school board, to deal with school tax issues. This issue is huge. It's going to take a lot of hard work. And we need to work with the county, we need to work with the state legislature, and the city needs to set up a formal process to develop a strategy to deal with rising property taxes for residential homeowners. We don't even have a residential homestead exemption in the city of austin. And the homestead exemptions that do exist for the state of texas have never been checked. They were done at a time when houses cost \$75,000 or something in that range. Probably less than that when those were first implemented. So we don't want to turn into california. We don't want to have people continuing to have to leave the city of austin because they can't afford the taxes. I'm sure you are aware there's a lot of neighborhoods in austin where people's assessed valuations automatically go up 10% every year. I'm in one of those neighborhoods. But there's a lot of them. [Buzzer sounding] ten times ten equals 100. If we're not careful, we could see property taxes double in the next ten years. So I need your help. I'm not here to complain, I'm here to offering suggestions. I've met with the city manager, I've met with councilmember

bill spelman and let's just work on this together and let's develop a strategy and get something done. Thank you very much.

Mayor Leffingwell: Thank you, bill. And you are not our last speaker. Our last speaker is stephanie peco. Did I say that right?

Hi, my name is stephanie peco. I'm honor manager of condo complex on farce trail. I've got a presentation. Two months ago we had a fence between our property and the howards. The howards moved in like in 2007. Our condo was built in 1961. So nothing changed on our side. If you notice to the east, the fence was 12 feet high. There was a section on our property that was 15 feet high and then the rest of it was like a 6-foot chain-link fence. In the next slide you can see the state got permission from the city to put up a -- on our 5 feet high decorative fence. On the other side it's like 15 feet high. All the other condo owners are okay with the 15-foot-high 5-foot fence, you see what we're looking out a second story window. What they want to do is grow ivy on it. The next slide. That's what it's looking to look like with ivy. What we would like to do is to have -- what we're looking at from our condo is their backyard. We're looking at their driveway, we're looking at part of their garage. We are not looking into their house at all. What we would like to do is take it down to 9 feet, which is like the third crossbar. We would like to take it to in front of the steps, which is the -- the 9th post. And that's just -- their privacy isn't breached. We don't have a crazy 16-foot fence in our face and that's what we're after.

Mayor Leffingwell: Thank you. [One moment, please, for change in captioners]

Morrison: And if we might be able to work something out that's a little more amenable.

Greg guernsey, planning and development review department. We'd be more than happy to meet with her. The owner of the property did take out a permit for the fence that's in question. We'll be happy to sit down and kind of go through that and explain the rationale on how and why that was approved that way.

I know it was approved, but it's not -- I didn't want to come here and tattle, but he is violating zoning laws, his deed restrictions, like another matter. So it's not as clear as --

Morrison: I guess what I'd like to ask is if you all could sit down and chat and get with my office and we can go from there.

Okay.

Morrison: Thank you.

Mayor Leffingwell: I believe that is all the speakers, so without objection, the council will now go into closed session 071 of the government code for consultation with legal counsel to take up four items. Item 112 concerning property located at 328 heartwood. Item 113 concerning case a 0635306 ly, eye anna and david hopgood et al versus the city of austin et al in the united states district court, western district of texas, austin division. Item 114 concerning labor negotiations for the fire department and

amendments to the meet and confer agreements with the austin police association and the austin travis county e.m.s. Employees association. And item 115 concerning opens meeting law. Is there any objection to going into executive session on the items announced? Hearing no objection, the council will now go into executive session.

Mayor Leffingwell: We are out of closed session. In closed session we took up and discussed legal issues related to item 112 concerning property located at 328 hart wood item 113 concerning 80638 -- diana and david hopgood et al versus the city of austin et al in the united states district, western district of texas. Austin division, item 114 concerning the fire department, with the austin police association and the austin travis county e.m.s. Employees association. And item 115 concerning open meetings law. No action was taken. Before we begin our -- our 30 briefing, I would like to take up items -- the items relating to -- to approval of the meet and confer amendments for e.m.s. And police. I believe it's -- it's 34 and 56. So we will take up item no. 34 First. [01:41:17]

MAYOR, McDONALD BEGINS His presentation, I just think everyone knows by now that this matter pertains to the austin -- austin police association and the e.m.s. Association. Having come forward to amend their contract in regard to wage adjustment that had been scheduled for 2010. Of course I think everybody knows by now they did that in recognition of the very severe economic challenges that challenged us in terms of our own financial standing of the municipal corporation. I want to commend them for that, coming to the table and doing that, voting in very significant numbers to support amending those contracts. I also want to acknowledge assistant city manager mike McDONALD AND HIS WHOLE Negotiating team. I think many of them sitting in the back of the chamber here, for their efforts, both parties came together. In fairly short order worked their way through some fairly complicated issues, a very successful meeting of the minds. Ultimately it benefits not only the -- this organization but the entire community and had a great deal to do with our ability to provide council just yesterday with the balanced budget recommendation for 2010, albeit that the final decisions haven't been made. Their efforts in combination did a lot to help us come to terms with some very challenging fiscal financial decisions, so I just wanted to take a moment at the outset here to commend everyone involved in that effort.

Mayor Leffingwell: Thank i, I would associate myself with those comments.

Thank you, michael McDONALD, ITEM 3456 AMENDS To the current meet and confer contract with both and the fire -- i and the police department. The provisions of the current contract that we and police for fy '10 call for them to 75% -- the actual provisions are -- would -- would be --

change the microphone.

Your mike went off.

Yes. The actual provision would have called for a 3% pay however, if other city employees receive less 5%, they would receive 2.75%. So -- so under the current contract, they would -- both and police were 75% pay increase. A summary of the current negotiations that took place were to amend the contract with police, amend the agreement and provided that in 2012, 2013 the police would receive a 3% base

increase and 1% to retirement. They would also receive notification to the association if there were any substantial changes to work schedules for divisions and units. In the cases of indefinite suspensions that there would be a good faith effort to write those cases to arbitration as quick as possible. Then in 2011, 2012 under the original contract, an optional year, that year would become a permanent portion of the contract. Then effective janua 1st, 2011, THE SICK LEAVE Payout would increase from 1400 to 1700 hours. This -- these provisions were taken to their membership and passed 83%. The summary of negotiations amends their contract and provides that in 2012, 2013 they would receive a 3% base increase. There would also be a soft pay item that was added for national certification, where they would receive an additional \$50 a month. And then also in 2011, 2012 would trans -- 2012 would transition into a permanent year. The next slide is an estimated cost savings over the life of the amendments that are added to the contract. In fy 2010, it would be a cost savings of 4.1 million. In fy '11, 4 million. 1 million, fy 13, 9 million for a total savings over the life of the contract of 15.1 million. With regards to e.m.s. And -- and fy '10, the savings would be 600,000. Fy '11, 600 again. 12, 700,000. 13, 400 For a total of 2.3 million. The total benefits of both amendments to the -- to the contract over the life of the contract would be a total savings for the city of 17.4 million. And similar to the -- to the comments the city manager made, i, too, would like to thank my staff and team headed by the negotiations officer larry watts, bruce mills and the rest of the team for the hard work that they have done. This was really a monumental task and we certainly appreciate the support we received from the council and from the city manager. That concludes my presentation. [01:47:21] [Laughter]

Mayor Leffingwell: We have something very strange going on here because when i turn my mic on, yours went on, too. So --

yeah.

Mayor Leffingwell: Yeah. Got louder. So -- so electronics. So, council, I believe we can take both of these items as one motion, approval of items number 34 and 56. So I would entertain a motion on those two items together. Councilmember martinez moves approval of items 34 and 56, which would approve the amendments of both police and fire labor contracts. Seconded by councilmember shade. Is there any discussion? All in favor say aye?

Aye.

Passes on unanimous vote. Thank you, sir. Forgot to note it passes on a vote of 6-0 with councilmember cole off the dais. Thank you. Now I believe we will turn to our time certain briefings. Beginning with the update on the water treatment plant 4.

Good afternoon, mayor and council, rudy garza, assistant city manager. This afternoon, our water utility director will be providing a comprehensive report and update on our water treatment plant. I wanted to open up with just a couple of points. Actually when I was nine years old, this project first started discussion in 1975. As part of the natural water plant back then. The plan in 1975 is that we would build this plant by 1980. We did not go there by 1980. As a matter of fact we bought the land for this plant in 1984. We negotiated with -- with lcra to secure water for that planted. In 1987, as you know, the 80s

WAS NOT A GOOD TIME For the economy. Council at that time decided to slow down. Several variables happened BETWEEN 1987 AND THE 90s That we just did not revisit it wack until -- back until 2002 the discussion began again about water treatment plant 4 and beginning the construction. Council awarded a contract corollo in 2002 to begin a site assessment and preliminary engineering. We came back to the council in 2005. At that time the discussion began about whether or not we should in fact proceed with our plan from -- from 1975 and the water treatment plant 4 or [indiscernible] replace [indiscernible] for the next couple of years there was a lot of discussion on that topic and without boring you with all of the history, in december of 2007, the council did authorize us to proceed with securing the current site of what they call the [01:50:49] [indiscernible] for water treatment plant 4. So this is a long-term project, over three decades of planning and discussing. And while we're not going to go into the three decades of history today, I think that you will get a lot of information regarding where we are with treatment plant 4 and our next step. With that I will turn it over to greg.

Thanks, rudy, good afternoon council. I had a cup of coffee, ready to go again. We are going to have slides available. Kind of where we left off, why move forward on plant 4. First part of my presentation I'm going to address that -- we see austin continuing to be attractive for population growth, that's one of the key drivers for plant 4. Client protection, going to talk a little bit about why plant 4 is perfectly situated to fit in with our climate protection plan and make significant discussions and austin waters greenhouse gas emissions. As I alluded to, water treatment plant 4 is isn't just about making that 50 million gallons of water. Really a backbone piece of infrastructure for the utility that includes not only the plant but water systems, large transmission systems to move the water where we needed to be in the future I want to talk a little bit about how it fits in with the utility's long range plan and how a lot of what the utility is planning to do in the future is connected to plant 4. Last, economic considerations. Why we believe now is the right time to build plant 4 from an economic perspective and how we think we can get this critical infrastructure on line at the lowest cost if we do it now today and kind of job creation we expect from that project. So let me start with the service area growth projections. We worked with the city demographer and planning department a lot. They have various growth scenarios for our service area. That range in percentage i think if you average it out over a 20 year period or so. It would average out to about 2% growth is the projection. I kind of summed it up. 1.8 To 2.2% range. This gives you kind of a sense of how [indiscernible] I was actually surprised this number in 2009 demographers projecting 13% even in the tougher economic times. So again austin continues to add customers and population base. In terms of our service area, just between now and when plant 4 goes on in 2014 we would expect to add somewhere between 80 and 100,000 population over the next 10 years, roughly 190 to 230,000. The 20 year plan window somewhere between 400 and 500,000. That's on top of our current customer population dates of about 862,000. And because of the growth it's not new for us to either build or expand treatment plants. Austin water has a long history of doing that. Starting with green being commissioned in 1925, davis in 1959. The various colored stars on there are the expansion. Expanding and adding is not new, it's something that's gone hand in hand as our community has grown over the last 100 years. As you see on the graph. I think important event occurred in 2008 the green water treatment plant was decommissioned forever. Then in 2014 is when plant 4 is projected to go on line. Soon after that our service population expected to cost over a million. Actually, if you look at the gap from when ulrich was originally commissioned to when water treatment plant 4 goes online that's

the longest period of time that the utility has gone without a brand new plant. I think that goes to some of the aging infrastructure issues that I will talk about, also, both Ulrich and Davis are aging plants. Going to need work and I think plant 4 helps us manage that risk of aging infrastructure in addition to all of the benefits. This is our demand graph coupled with presentation and timing of plant 4. Kind of a complicated graph. Will spend a couple of minutes here. I think some of the critical trends lines here are the blue lines, particularly upper blue line, that's our demand curve projection without conservation and includes this 10% caution factor that I just described earlier that we always project them to add 10% for some of the uncertainties and caution. We currently have 285 million gallons in capacity between Davis and Ulrich. And you can see our capacity line would do that top graph of 2011 that's when we originally were working with council on when we thought plant 4 should go on line. The council directed us to do additional work on conservation, which I described this morning, that allowed us to push the date to 2014. That included an extra year to -- to get off the original Bull Creek site that Rudy mentioned that we bought as many of us know that was highly environmental sensitive site and we found an alternative site to that. If you look at the conservation line, we are projecting savings between a conservative 16 million gallons half of the task force recommendations up to their specified amount of 25 million gallons which is that blue line. Again we see plant 4 the need, depending on how successful we are with conservation, somewhere between 2014 and 2016, we think that's really the sweet spot for lack of a better term to get the plant on line. We are still targeting 2014. You want to continue with 2014 even though we probably have a couple more years because I think we're probably going to come closer to the [01:57:15] [indiscernible] savings there. But plant 4 could easily run into construction problems that delay it, somebody protesting a bid or permit. It would be very easy for that project to slip a year or two. We don't want that to happen, but we think staying on 2014, staying in that two-year range is the right time to go. Once we add plant 4 and the first 50 million gallons of capacity, that would take our -- the capacity up to 335. You can kind of carry that dashed red line out at the top. The next time it starts to cross those conservation lines for demand growth is roughly 2025, 2027. Those are opportunities to delay those future expansions. Plant 4 is ultimately going to have capacity up to 300 million-gallons per day in various modules, there's going to be many, many opportunities in the future to delay the expansion of that plant, the conservation and other factors continue to grow. But I think getting that initial infrastructure up, a lot of it is backbone infrastructure that will serve for the next century is really important. That ultimately gives us maximum flexibility in terms of meeting demand in the future and delaying if needed future expansions of the plant. Let me talk now about climate protection and water treatment plant 4. From a kind of a power consumption perspective, Austin water is one of the largest power consumers in the region in terms of city government departments we are actually I think the top user of power, about 210 million-kilowatt hours per year is consumed by Austin water. Most of that for pumping and treatment of water. In plant 4, it is extremely well situated to help us manage our water supply and greenhouse gas emissions. This graphic kind of is a -- when we might call a hydraulic profile for an elevation. You can see that plant 4 is perched at the very high elevation. Lake Travis is about -- about typical elevation is 681 feet. That's almost 200 feet higher than our other lake we draw from, Lake Austin. One of the big power users is lifting water, moving water to higher elevations, Austin has a lot of hills. If we could start the water at a higher elevation, we will save considerable energy in the future. As a matter of fact, immediately within the first year of operation, of plant 4, which we expect to be about 31 million gallons per day, we'll immediately save conservatively 10,000 metric tons of greenhouse gas

emissions. That is equivalent to the kind of -- kind of greenhouse gas emissions data that you would get if you could conserve 8 billion gallons of water, about 25 gallons per capita per day. That's the same amount of greenhouse gas emission savings. Also would equate to 2,000 cars driving about 12,500 miles per year. Now, I'm not saying plant 4 substitutes for conservation in terms of greenhouse gas. I'm saying the two together, a robust conservation program and plant 4 will have a powerful punch on reducing greenhouse gas emissions. Plant 4 continues to treat more water in the future that will continue to expand. We move from 30 to 40 million gallons per day, we would say the metric ton reduction decrease by 5,000. Reducing 15,000 metric tons of greenhouse gas emissions. The other reason where we have those greenhouse gas emissions, a lot of people focus on the plants, the factory that makes water. We don't want to lose track that one third, one quarter to one third of plant four is transmission mains, pipelines and tunnels to get the water where we need it. No matter where we produce water we've got to get it to where the growth is. Water treatment plant 4 is perfectly situated, as a matter of fact we have been planning for this for many, many years. These transmission mains, i will go into that more about why these are so critical for us to be able to serve where we expect growth. Here's a graphic of our system. The very colors on this map indicate pressure zones, the highest pressure zone is in the northwest. That's our highest elevation. The hatched area is a desired development zone. All of our planning that we do for growth is exclusively in the desired development zone. We don't do any planning for growth in the drinking water protection zone. The red line is a likely magnet for future growth, 130 corridor. We have two plants, davis to the north, ulrich to the south, right now davis pushes most of the water to serve the northwest areas, to serve kind of the northeast areas and part of the central zone and then ulrich takes a part of the central zone and pushes most of the water to the south, to the south of the river. That's the way we're currently configured today. Of course you know green is no longer an operating plant. As we look at the growth areas, just kind of put some -- some indicators on this map, pearson place up around avery is starting to take off, we recently received a service request there. The city has a long standing agreement for the robinson ranch area. I don't know the acres, but thousands of acres in the robinson ranch area and the area along the toll road, 45 and north mopac. The burnet north gateway area is a magnet for growth. As a matter of fact i mentioned to councilmember cole's question that the long range projections just in the north burnet gateway is about 450,000 lue's over the next 30 or 40 years. I-35 corridor is -- 130 corridor is going to be a magnet. Council recently approved public improvement districts for whisper valley, indian hills, thousands of lue's there. Then of course in the southeast program we have carma and many other south development along i-35. We really see that as hot spots of growth as we look into the future. With this next graph you can see how well situated plant 4 is from a systematic perspective to serve that. The big blue area is where it would be. Draw water from lake travis which is very close and at a high elevation to be able to serve northwest area. Part of the northeast I 30 corridor. In essence we would shift almost all demand of current and future that is occurring in the northwest area, avery ranch, pearson, robinson, burnet, north gateway, the upper kind of northeast desired development zone around 130 all of that would be served by water treatment plant 4. That would free davis to direct water more into the central zones and support the 130 corridor and would free ulrich to ain help some of the central zones and really be the dominant plant for carma and southeast in the future. Again, I think very symmetrical way, efficient way to serve what will be probably 50 to 100,000 lue's that would occur here in the future. Kind of keeping that theme about managing risk and water supply, diversity, operational reliability, i kind of want to point

out that right now kind of this graphic shows that our two plants are both on lake austin. They are fairly near each other. I don't want to go into a lot of details where their intakes are located, but both on lake austin. You can see plant 4 is on a different lake, obviously lake travis. Although it's the same system. Lake travis releases to austin, having a plant on a different lake, actually the deepest, cleanest lake in the region and a lake that's impounded by a different dam than the dam that impound water for lake austin, gives us a lot of diversity. If for some really low probability we vent that lake austin were to be compromised or polluted for a short period of time, having plant 4 certainly increases the reliability and redundancy of supply. This graphic also gives us a sense of the scale. People don't realize how truly large lake travis is. Lake austin is a constant volume lake. You see the blurb on the map of lake austin compared to the potential storage of lake travis when it's full and even at historic low. Again, lake travis is a very deep, clean lake that we think it's worth getting a straw into in the big picture. I want to talk about aging infrastructure. I mentioned that our davis treatment plant is now approaching by the time plant 4 goes on line, it will be over 60 years old. We have a lot of needs at davis. The decisions of rehab that we make at davis are tied to plant 4. If we don't do plant 4 the way we pump water out of davis will change considerably. We will have to keep that as a high service pumping plant, increase the high service pumping capability, we will have to beef up transmission mains out of that. There's a lot of long-term decisions that are riding on plant 4. We have been leading -- leaning in the direction that plant 4 is going to happen. The pump station at plant davis, this is original. Here we cannot wait to begin rehab of this particular part of the plant. As a matter of fact council approved initial engineering on this. We have been holding off rehabbing these kind of pumping systems at davis trying to clarify our strategy with the plants. Now that we have plant 4 in focus, we know what we need to do at davis. I think if we continue to create uncertainty about plant 4 it's going to create uncertainty about what we need to do to rehab a plant like davis and we are going to have to start the rehab. This is going to be incumbent on us to work to keep davis well functioning in the future as well as ulrich. Here's an example of what can happen with aging infrastructure. This may be hard for you to see, but this is one of our older [indiscernible] at you will relationship, now approaching 40 years of service. Things were cruising along this summer, no problem. All of a sudden, concrete failure in this basin that holds the super structure up for the treatment works for this particular basin. You can see probably the concrete. Stop production, that happened. Particularly as the plant ages that will happen more. Another reason why plant 4 helps us manage those risks. I'm not trying to say our two plants are a mess we haven't been paying attention, they are on the verge of collapse. You shouldn't lose confidence in your water supply. I'm saying that managing aging infrastructure is very important for us and plant 4 helps us on that side, too. Financial side, an article from engineer news record, a source to go through for bidding environment across the nation. In june ran an article that ultra competitive right now across the nation on bidding. If you put large heavy infrastructure out for bid right now, you get the best bid you can imagine. In my 25 years in the utility industry I have never seen a more competitive bidding environment than we have now. I have additional back update take to share. In fact our economist just did an analysis. The heavy construction bidding environment is minus 10% across the nation. More competitive than ever before. We see that in our bidding records. I'm not making this up. We did an analysis since june of 2008, 23 large water and wastewater infrastructure project that totaled 89 million. The bids came in \$64 million or 25 million under the engineer's estimate or 28% below that. Round rock, cedar park just did a large transmission main, came in two-thirds of what they estimated that cost to be. We talked to the university of texas, the



[indiscernible] transportation, travis county, we are seeing this phenomenon all across the industry. The more we can put heavy infrastructure projects out for bid over the next year or two, I think the more economic benefits we're going to get for bids on infrastructure at the lowest possible cost. In -- again, here's some of the analysis that we have for that. Plant 4 right now is -- is estimated at 508 million, everything, land, engineering, all of that. The construction components of that, we believe if we were to bid them now we could -- when I say now i mean within the nex two, we would save five to 10% in -- in reductions from the competitive side. That's equal to 23 to \$45 million in construction savings. In addition, if every year we postpone plant 4 we postpone it to 2015 or 16, we feel that a reasonable estimate for construction inflation in those years would be 4 to 6%. So one year postponement would add 18 to 50 million, 53 million in inflationary costs and so on and so forth. Five years would be 100 to 201. Competitive bidding coupled with inflationary increases I think are really compelling why it makes economic sense to build plant four now. There's still -- if you wait to build plant 4 people say you will save money. I'm here to say today that postponing it will not save money in my opinion. People may differ with that judgment, I think that's our recommendation that postponing is not a money saver. From a rate impact, we have included this slide just to give you a sense of scale. Typical residential customer. If we go forward with plant 4 and build it for what we believe the current cost estimates are, not the savings, just our \$508 million current estimate, we believe when it's all finished that it would cost the typical property owner \$3.20 to \$4 per month. That's roughly a 12 to 15% increase that would be kind of scheduled out over the next five or six years on just the water bill. That's just on the water bill. The other thing is from a borrowing perspective, austin water has never been in a better position to borrow water -- borrow money. We just had our bond upgraded even in this really tight economic market. We went out with a bond roughly at the end of last year, beginning of this year, and the -- the rating companies and moody's upgraded up to double a. One of the most credit worthy utilities in the nation right now. Bodes well for us to borrow money and be competitive. The other economic element of plant 4 is job creation. We used information that came from a report on the stimulus dollars from the president council of economic advisors, they said that every \$92,000 of public sector infrastructure or heavy infrastructure sector creates one job year. One person working for one year. If you take our \$350 million estimate of construction alone for plant 4, not engineering other things, we believe that construction elements alone will generate over 3,800 jobs. And because we selected the construction manager at risk delivery method, that allow us us to table our construction packaging in a way that will really complement the local construction industry in austin. We think that we will break all-time records in small minority women owned business construction participation on plant 4. As a matter of fact you will start to see some of that in august 6 when we present to you the next step in our construction manager at risk process. Environmental commissions and sustainability. If we build plant 4 are we going to do it in an environmentally sensitive way. The construction itself. I want you to rest assured that we are absolutely going to build plant 4 in the most environmental sensitive way. When we originally were considering plant 4 on bull creek, we started environmental conditioning process. The hiring of a separate independent engineer that answers to watershed, not to austin water, to make sure that the design and construction of plant 4 is done in the most environmentally sensitive way. This is our mission statement there. Even though we moved off the environmentally sensitive bull creek site, we did not lose track of the need to continue with that and we will see that constructed in a very sensitive way. As a matter of fact a lot of our buildings that will be occupied by staff out there are going to be led certified buildings,

make sure they have high sustainability elements. I won't read all of this, but many, many sustainability elements included, [reading graphic] on and on. Plant 4 will be a premier plant in terms of how it was constructed and how it's going to be operated from sustainability. Kind of reaching conclusion, we have been working really hard with the council and community to get to this point. There's been almost a dozen council actions since 2006 when they originally authorized us to move forward. We have delayed for a year to find a new site, which we did. We found two sites and council felt so strongly about the two sites that we purchased our primary site as well as the backup site. We authorized the engineering of the plant. We have authorized the engineering of the two transmission systems, jollyville and forest ridge. We have our site plan development ordinance all in place. We have done our first minor construction project for construction fencing. Council authorized the use of the construction manager at risk alternatively delivery method and we recently approved an agreement with travis county to do work on the road which is actually going to be on your august 6th agenda for construction. Again, many, many kind of legislative actions to put us into alignment. Kind of in recap, we have put \$70 million so far to get where we are in terms of biting land, doing the engineering, 10 council actions, everything in alignment there. Financial considerations, i don't think we could ask for a better time to build plant 4. I'm not happy that we have a recession. But if it's here, we should take advantage of it for lack of a better term and get this infrastructure bid at very competitive rates. Our bond is in place. Everything is there financially. Including job creation, that's well timed. Good shot in the arm for austin and its economic recovery with these construction jobs. Greenhouse gas reductions, coupled with conservation, really complement or climate protection and environmental sustainability plan. Austin water can do this project. We have demonstrated that we can do major infrastructure projects and execute them in ways that demonstrate national leadership. Our austin clean water program has been recognized across the industry as one of the best projects, it was a \$400 million project in the heart of our city, austin water, public works and the rest of our partners executed that in a professional way. I'm telling you here today we're going to do the same anything for plant 4. We are committed to conservation. I have heard comment from community leaders at time that if we do plant 4 we are going to lose our way on conservation. I'm telling you as director, my associate director, assistant director daryl slusher, we are committed to conservation, we're for the going to lose our way in terms of conservation as we go forward with plant 4. [One moment please for change in captioners] I would say of these three FRXZ ON AUGUST 6th, THESE Are not the point of no return transactions. Pre-construction on plant 4 are really more professional, constructability. The comanche county is just improvement. The bullock hollow, that would serve many benefits would also be in place for many years should the council ultimately choose to not move forward with that. If we do move forward on august 6 this will still be time to consider some of the plant 4 items. However, as we look beyond that, there are some more important transactions coming up that are, you know, kind of positioning us in terms of the point of no return. We expect in october or thereabouts that the site preparation work which would be the really earth moving work would begin. That would be a fairly substantial contract, 2 to \$4 million. In november additional clearing and storm water construction for our ponds to help us manage storm water during construction. Beginning in 2010 we would see the major packages start to come out for the raw water system, the plant and the construction manager at risk and those guaranteed maximum price packages. So kind of that's in conclusion I think maybe a review of where we are with plant 4. I know that was a lot of material and I'm sure there's many questions and we'll have more than just today to work on that but I wanted to

give you a sense where we stood today and why we think plant 4 needs to move forward by 2014. That's our recommendation. I have the whole design team here today. Many of our other staff if you would like to go into more details or how we need to follow up in the future.

Thank you, greg. Excellent presentation. I think you've made the case very well. Described the history and, you know, as brief of terms as you possibly could. It is a long, ongoing project. I've been here for a good part of it and I've got the scars to show for it on my back. So -- and we've got a long ways to go. Speaking from me personally, i think this is, as you said, a very important part, in fact, the backbone of our water utility of the future. Now is the time to build it for environmental considerations and we need that plant in the very near future. I think folks can have a good argument, know this is black and white about whether we need it in 2014 or 2016 or maybe 2017, but we're right in that zone. And the point was well made that condition instruction completion dates are not set in stone. You cannot say it takes us four years or five years to complete a water plant or a wastewater plant or some other kind of plant. Things come up. You have to build in, i believe, a little allowance for delay for unforeseen things that happen that cause a project to slow down or you have to allow additional time for that. So I will ask other councilmembers if they would like to make any comments. And again, thanks for the presentation.

I have a quick few questions, mayor.

Mayor Leffingwell: Councilmember cole.

Cole: Thank you, greg. I appreciate the presentation also. I only have a few questions. I think that a lot of times with the general public there's the confusion about our general fund versus our enterprise fund. And we've been talking repeatedly in the media for the last six months about our budget deficit and a whole lot of work has went into trying to balance that deficit. And so I think people need to understand how we can go forward with such a major initiative despite the fact that we had a budget deficit.

Plant 4 is 100% funded through the water utility funds that we don't receive any general funds or sales tax or anything like that so it's separate from that. Again, as I mentioned, our creditworthiness and our utility is very strong, our ability to borrow money is very strong. Actually our revenues have n hing pretty firm even through the recession. Clearly we're suffering too, but because of some of the drier revenue revenues have been staying up so I think we're very well position to do build plant 4. That's been part of our rate planning for the future so i think, again, even though the general fund is down, I think the water utility is prepared and in a good position to fund and build plant 4 and in no way will it affect the general fund deficit.

Cole: Okay, so would it be fair to say that the enterprise funds are almost like a separate business entity of the city?

I think that's an exact way to say it.

Cole: You spoke a little about growth and it's my understanding that for all the statistical modeling that

you can potentially do, you just can't predict the growth of the city. Is that a fair assumption?

Yeah, I think that's a fair assumption. You know, you can't tell what's going to go with growth. I've read some articles that austin has been identified as the most economically ready to grow market after this recession in the nation. And it's possible that you could see growth hyper accelerate in austin. There's always a certain amount of uncertainty in how fast you are going to grow and I suppose you could argue you could go slower too, but that goes since you can't predict these things perfectly that you wanted to really prepare for self for if kind of potential growth contingency that you have. You look at the history of austin through good times and bad it's really never slowed down in terms of growth. It's kind of been on this march and I think we need to to mate up our infrastructure. If all of this growth is targeted I desired development zone, that's exactly what's happening in plant 4 is perfectly suited to that growth occurs in the desired development zone.

And it's my understanding that because of the recession, austin because it still has a relatively stable job market is actually seeing more citizens come to austin and we did not predict the recession so we're not simply looking at, say, a 20-year past history and saying the population doubled. Sometimes things happen in that interim that you can't predict that would cause you to have a greater demand for the water supply. Is that correct?

You are correct. I had a note in my slides 1 -- 3% growth this year in 2009 and this week there was an article in the newspaper about people row locating to austin even during these times to get a fresh start.

And would that same theory hold true for drought conditions? Because I know we're experiencing that now and i would think there is simply no way to predict that. That.

Drought conditions?

Yes.

Droughts are expected and we plan for them and that's why we have drought contingency management plans and we'll work through this one also.

Cole: One of the last points I wanted to make is i believe especially when the ordinance passed that we made a decision as a city that we were going to try to discourage development in the environmentally sensitive lands west. And try to grow the city in the desired development zone east. And I don't see how we can possibly live up to that obligation and even honor the tremendous infrastructure money that has went into 130 if we do not have this water source. Do you have an opinion on that?

I agree. We're putting considerable dollars in water and wastewater pipeline infrastructure in the desired development zone, the 130 corridor southeast and that's preparing those areas for tens OF THOUSANDS OF L.U.E.s IN The future and we've got to fill in the rest of the puzzle which includes the treatment plant. Treatment is the heart of the utility, that's what we do. And we don't want to prepare

everything, raw water rights, distribution system, but leave out the central treatment component of this.

Cole: The last point i want to make is you and mayor leffingwell emphasized the economic impact that this treatment plant would have on the community. I have heard from several members of the minority contracting community that really do support this stimulus package, as they would call it. So I would just like to hear some of your comments on that point.

As I mentioned, we expect thousands of jobs to be created, construction jobs. The bulk of those being locally created. We are going to take special steps to construction package our plant -- packaging means the kind of construction bids that come out, to package in such a way that is very complimentary to our small minority and women owned businesses. So we expect very high participation and the transmission mains through these contractor communities.

Cole: Finally, I just want to make the point that in the event that we had one out of electricity, we could make a decision as on city to simply buy more on the grid if we're wrong. But in the future, if we're wrong about our water supply, what could we possibly do?

You can't get any more. It's all made locally, it's all treated locally. If you can't meet demands, then you just have to not meet demand or curtail in other ways, but there's no grid or backup supply for utility our scale. As a matter of fact, we have in a good neighbor way, we're the emergency supplier for a lot of other smaller utilities around if they have a major fail or something, we back them up. But there's no backup for a big utility like us. We're on our own in that regard.

Cole: Okay. Thank you, mayor.

Mayor Leffingwell: Thank you, councilmember. Councilmember riley.

Riley: I want to thank you again for the helpful information. One of our most basic responsibilities as a city is to make sure that we have an adequate water supply now and in the future and I know the water utility takes that very seriously and I appreciate your ongoing efforts on that. This is going to be a continuing conversation. There's been a lot of new information provided even just in the past few days and i know we're going to continue absorbing that and talking about it in the coming weeks. So I just want to cover a few items now. First, just kind of a conceptual question. I know that right now and at times like this everybody is looking to figure out how we can stretch scarce resources the farthest. And with regard to water, there's been some talk even just within the past week, the statesman ran a story earlier in the week about meeting water supply and pointed out the very cheapest way that you can get more water is actually through conservation. Given that and given the times we're in now, why wouldn't we be investing in that source of water? Investing, focusing our efforts on conservation as opposed to new infrastructure? Wouldn't that be more cost effective focus principally on conservation?

It's not an either/or decision or one versus the other. From my perspective you need to do well at all of those. That you need to be a leader in conservation, but you also need to be looking forward and be a leader in terms of having the adequate infrastructure and infrastructure renewal. I would liken it to austin

energy. You look at austin energy and clearly they are a leader in conservation, maybe the best in the nation, yet they still put on generation caps out a fairly routine perspective. I liken that model to ours. I think we're going to be, we are and are going to continue to improve and be a leader in conservation, but there are going to be times that we have to renew infrastructure, build new infrastructure in order to meet the demands of our communities. In austin energy we don't see those as competing strategies and I would put that in the same here. I mean we have to -- enough said.

Riley: The key is to make sure we're doing everything we ought to be doing on conservation ago well as focusing on infrastructure. In that regard, let's look at where we are now in regard to our peak day pumpage. The chart that you've got there, the sixth slide, showing our projected peak day demand, I want to make sure year on the same page as to where we are now and the trajectory. I take it we're around 240 M.G.D.s?

That bottom line is kind of our projection for -- you know, based on the way we project for peak day pumpage. Last year from my early presentation our peak day pumpage that particular year was 230. This year we're going to be up above 230, in the 230 to 240 range. And again, we have a few more months to go in the summer so I can't say what's going to happen now, but over the last month we ended up going over 230. We're right in that 230, 240 range.

Riley: And if you are going to look at the trend over the past few years, what do you see? Do we have -- '07 and shows us going up a little bit.

Yeah, I think probably in some of your detail material we have probably some of those graphs. We'll get them to you, but basically the projection on pumping is this -- these two blue lines. The bottom line and the top line that has the 10% variation factor. But as that climbs, that bottom blue line and that top blue line, that's our projections. I'm sorry, I'm on the --

[inaudible].

Could we bring the slide back up? I don't have a slide number. It's probably about number -- yeah, number 6, I think.

Riley: The first chart. Second chart. Graph.

That's it. One more. Right there. Does this laser pointer work? Okay. Sorry.

Riley: If you could just make sure where they are referring to the solid blue line.

The bottom solid blue line is our projection based on peak pumping. Now, per our cautious approach and per our modeling that we project, we always add 10% for that for just risk management. So the top blue line is what we use for determining when it's time to add the next module of treatment. So those two lines are parallel. They kind of run together. You can see over this about 15-year period how peak pumping will continue to increase. Now, conservation brings those lines down. If you look at the top line

as a decision line for treatment plants, that top blue line, the dashed green line is the conservation projection. If you assume that we'll get at least 60 million gallons per day in conservation savings through our current conservation programs that we're implementing, that's that dashed green line. If you assume that we'll get 25 million gallons per day in conservation savings, which is what the conservation task force tasks us with, that 25 million, that's that bottom blue line. Those are projections with conservation and those are really the key. That's why we can extend out the time for plant 4. You can see that red line that says 285 originally crossed the blue line about 2011. With conservation, it crosses at between 2014 and 2016, depending on if we get between 16 and 25 million gallons per day in conservation. That's why we're saying that that's the window that we want to get the next 50 million gallons of capacity created. And again, plant 4 beyond creating that 50 million gallons also lays the framework for future expansion that could be delayed as our conservation programs continue into the future. Does that help?

Riley: Sure it does. So the key is to focus on the two dotted lines, the dotted green line and the dotted blue line, the dashed blue line representing the somewhat more aggressive approach to conservation. Under either of those two scenarios, if we focus particularly on the next five or six years what we see is a fairly flat line in either case. It's only around 2014, 2013, 2014 that you start to see both those two dashed lines angle up. And then you have a steady upward trajectory from then on out. Isn't that fair?

I think if I'm understanding that.

So as we look over the next five-year period, we actually see a fairly flat peak water use due to conservation efforts.

Right.

Riley: So I guess my question is, I think that's great and I'm proud of our city for having worked to achieve that and we haven't done it yet, but we have everything, every reason to believe our conservation efforts will produce fairly flat peak water usage for at least the next five or six years. My question is suppose we were to recommit to water conservation, even more aggressive water conservation efforts than we've seen to date and we put in new -- new water reclamation lines, we pursue -- we adjust our plumbing codes as you suggested previously to promote more gray water use. We get [indiscernible] a national leader. Isn't it possible we could actually keep those lines flatter beyond 2014 instead of seeing a steady upward trend starting in 2014? Isn't it possible we could keep those lines flatter for a little while longer?

I think it's a hard question to answer. I think we do have a comprehensive set of conservation initiatives and as I described this morning that conservation initiatives typically kind of follow a declining curve that as you implement the really low-hanging fruit where you get 5, 6, 7 million gallons a day in savings, that as you get those programs, the next program is a lot smaller benefit and the next program is a lot smaller. While we'll always be continuing improving conservation, that you should not assume that you can continue to offset the population growth and the new water there; that eventually you are going to hit the diminishing curve where there's no more conservation efforts that you can take that are going to

be able to off set the kind of growth related demand that you are going to see.

Riley: I can see that argument with respect to watering restriction because once you put watering restrictions in place you get a big bang but then you see it taper off. But with respect to things like water reclamation lines, suppose we were to build out our water reclamation network beyond what we see today. With that sort of effort, that sort of infrastructure, then couldn't we achieve -- continue to see additional gains in terms of water conservation?

Well, a couple of things. You know, our water, we do -- as I described we have the master plan for the reclaimed water program and we are billing out and we expect to achieve -- this includes several billion gallons of additional reclaimed water customers that are not yet online. Significant reclaimed water benefits are already plugged into these models. So you would have to go beyond that several billion gallons of new reclaimed water that our customers are going to put on over the next five to ten years. Again, there's marginal returns there. You are going have to start building the system out farther and farther. I mean you are going to create a third utility and you are going to have to extend miles and miles, you are going to hit greenhouse gas things because you are going to be pumping water from the wastewater plants way up into the northern elevations. You might spend hundreds of millions of dollars on reclaimed water system that -- that might take decades to do that kind of buildout.

Riley: Well then let me ask you this. During that -- the course of that water conservation task force, I repeatedly heard said that that was considered a first step. That we expected that we would be doing more in the future. We would be doing things like the gray water lines that you mentioned earlier. We would be encouraging more gray water, which we're actually behind most of our sister cities on that. That was one spot on the chart where we weren't comparing so favorable to other cities. So I guess my question is, if we went that -- made that extra effort, took those additional steps that we contemplated at the time, are you saying there would be no change in that line that we see on this graph?

Let me respond in a couple ways. I think that some of those programs are going to take a long time to implement and based on other community perspectives like we did a lot of research on gray water in arizona, which they are ahead of us, they really have not seen that significant of reduction in water from gray water. Not to say it hasn't helped at all, but it isn't 10, 15, 20 million-gallon per day kind of changes. I think if you are asking what kind of conservation things could you do to radically change water use, I think there are some policy things embedded there. You could go to one day per week watering. That would have a very large effect. I mean san antonio is on one day a week now with the aquifer restriction. I think that's obviously a council call and would change a lot in terms of how people think about water here, water fountains, turf grass. There's a lot embedded in that have smart sprinkler you would probably have to -- I think you would have to make those kind of decisions to do. That you go to the western desert states and ines season they don't have grass, they use rock. I was just in las vegas a while back and looked through their neighborhoods and it's a lot of rock. There is no vegetation. So I mean clearly those are options that we could work through with the community and council if we wanted to, again, keep pushing on more profound conservation related issues.

Riley: I take it you see that as a policy change and would require significant lifestyle changes. I guess



I'm looking for are there other water conservation efforts that you would support? I mean when we talked during the water conservation task force about first step and pursuing other things in the future, was that really just talk? You didn't expect we would ever do anything more without, you know, radically changing our lifestyles? We've done about all we can do?

As I described in my morning presentation, you know, we are looking at other things. I talked about metering technology. Automatic metering technology to get near realtime data to customers so they can better understand their day to day water usage and make better decisions on how they use water, not only for conservation but it helps them manage their bills. You will see us continue to add dollars and staffing to our conservation program. I talked about Austin Water increasing funding of the Grow Green program. I talked about additional changes to the bill, adding graphics to solid blue line people are more informed about their water. There might be control systems that we can better control pressures in our system, that can help on the water side. I mean I see us never ending our quest for conservation. I talked about reaching out to underserved neighborhoods where they haven't taken advantage of low toilet flush toilets. The marketing of multi-family with toilets. There's a whole host of conservation things we're going to do that are beyond even what the conservation task force has. But I am saying that I don't believe those conservation measures while helpful are going to allow us to offset the kind of water demand that the population growth is going to create.

Riley: If we move forward on every one of those things you just mentioned, we still wouldn't see any change in the lines on the graph?

I think you would see some change. I would hope we go beyond 25. I don't think you are going to see a radical change on the time of the plant. You could push this out 20 years and these are sometimes judgment things.

Riley: I guess I'm trying to get away from black or white and say it's either nothing or a radical change. If we just do the moderate changes that you seem to be comfortable with, then what effect would that have? And I'm not suggesting it would necessarily be a radical change, but I'm assuming there would be some adjustment of those lines if there are effective conservation measures. One thing that would be helpful to me if there was another line on that chart that showed if we do everything that you are suggesting, if we take -- new aggressive conservation measures, and I don't meanlessly altering our lifestyles in aggressive way, but what would that dotted line look like, where would we be then?

We'll provide that for you. I think we can give you some sense of those things.

Riley: Okay. Thanks. ,.

Mayor Leffingwell: One quick comment. This graph tells the story. You see right after after the program was put into place, you see an almost flattening of the curve. That shows the big lump that you described that we got through water irrigation reforms. And then continuing on up through 2011 when we're going to have -- and by the way we're operating on an accelerated for water recovery through 2011, then we're seeing the benefit of that part of it. And then as the curve begins to resume the slope of

the rest of the curves, a slight upward trend, what we're seeing is more incremental because the other element in the water conservation policy was really predicated mainly talking about new construction, new development. As new houses were built, there were different requirements for irrigation systems, different requirements for landscaping, increased soil depths, that kind of thing. So that kind of -- that's see the dramatic flattening of the curve that we saw in the initial stages. And we knew that. We knew that right away. And that's what enabled us to safely, and I made the motion to delay water treatment plant 4 for a year while we looked for a new site several years ago because we saw right away that we were taking this big [inaudible] savings up front. We knew there were other savings to be had, but we felt like a lot of them were tough political choices and they were going to be incremental. We talked about things like storm water reuse. We talked about ways to encourage or mandate more rain water harvesting. We have -- we have a water conservation group in the utility. We have a citizen water conservation task force, and we look forward to seeing recommendations on all those subjects and more from those groups. And we do want to increase conservation efforts and we're going to keep working on that. But it's going to take a long time to have enough hard information. Remember that 10-year plan was not based on some kind of guess, some kind of forecast on what we thought the response to some kind of program was going to be. It was based on mandatory requirements that while nothing is absolutely reliable, that was very reliable. And that's what enabled us to adjust the timetable for plant construction. So I think if we're going to go back now and try to draw a new curve based on new reliable requirements which would be mandatory, that's going to be a very lengthy process. Probably at least a year. I would think. Councilmember Spelman.

Spelman: I want to be sure I understand all the pieces of it. You say the bottom blue line is where you think we're going to be.

I'm sorry, say again.

Spelman: The bottom blue line is your best guess for where you think our demand is going to be.

That's kind of the regression line.

Spelman: It goes up and down but on average this is about where you expect us to be.

Right.

Spelman: The top blue line adds in 10% the fact we're up and down and some of the time we can expect to have a bad year and this is to cover ourselves against that uncertainty.

Right.

Spelman: And the light green and light blue lines are where that dark blue line would be if our conservation efforts including reuse, including reducing water loss, including a bunch of other things, if all those things were successful to some degree.

Yes.

Spelman: And the light green line is assuming success to 16 m.g.d.

Right.

Spelman: And the light blue to 24.

25.

Spelman: 25. Okay. In our plan for the next 10 years, we are estimating peak 65, which is considerably bigger than 16 or 25. I could get pretty much where that would be on this curve, but basically with my guess it's going to be below that light blue line. That would be accurate, wouldn't it?

Yes. The reason these two lines are on there, it ties back to the task force. The task force, as we were working with council on should we delay plant 4 to look for a new site, we kind of worked through a couple scenarios. One was assuming, hey, let's assume that we'll get 50% of task force savings. came together. Then they said, you know, another assumption is try to get at least one percent a year over 10 years roughly or 10% total, then that's where the 25 m.g.d. came from. And 25 was actually -- our previous peak was about 250 and we figured if we could take 10% off. You could put a third line on there, I think that's what commissioner riley was getting at too, what if you got 32 d, you could put -- you could have as many lines as you wanted and it's going to continue to --

Spelman: Okay. The only reason for arguing for 32 is that was the plan you presented this morning and that's the plan we're ahead of schedule on already and we've actually done a little bit better at least it appears, it's too soon to tell whether it's going to stay that way and whether that was some eccentricity in the data points. But for watering restriction it looks like we're doing a 16 peak day -- millions of gallons per day for peak day savings. We'll have to see it over a couple three careers to verify. 65 from the presentation you made this morning as being a reasonable estimate for what would happen if chris riley's suggestion were actually taken and we did everything we know how to do. So we would draw a third line down there consistent with your plan. Okay, now, the question I've got now is what's the right place to start that line? We could start it around 240 m.g.d. was your guess at 2007. That's where that lower line starts around 240 m.g.d. But our total pumpage last year was, what, 221, 226?

I think it was 228.

Spelman: 228. On a peak day in last summer. So I know things go up and down, but if we're already putting in 10% break for that up and down, it seems we ought to just pick an average point for the lower blue line and where should that lower blue line start? 240? 228 Or some other number.

I would probably want to sit down with planning folks and work through a little of that. I'm not sure I'm understanding all of your question or observation.

Spelman: I'm not sure I'm understanding it either.

The green and blue line are offsets to the dark line. There's imaginary green and blue lines.

Spelman: Of course.

Underneath even that --

Spelman: But the lower blue line, that would be our actual demand not taking into account that 10% fudge factor.

Right.

Spelman: So -- because your argument would then be 2008, that's why we were getting started with the lower number. That would be the lower blue line, dotted line.

You couldn't take your -- you know, we implemented a good chunk of conservation measures. That's now your --

Spelman: That's the base.

That wouldn't be maybe a fair analysis.

Spelman: I want a fair analysis. I just want to be sure i understand how all these moving parts are work and where this line starts. And where the line starts presumably is increasing it, slightly increasing the rate to take into account of exponential growth over this period. That's what you were saying earlier. That's why it's gone up the way it is. And the reason it's dipping a little bit, the light green and the light blue is because of conservation efforts. I just want to be sure i understand how this all works.

Yes.

Spelman: and I'll get with your engineers and figure out where this thing should have started and things like that. I've got one more detail i want to ask. You were saying a few minutes ago that because we are in the favorable position from an economic point of view of somebody is trying to build a big plant, that engineering and construction services are cheaper today than they would have been a few years ago or are likely to be in the future. And you were estimating that some of the projects that we put out for bid in the last few months ended up -- came back 28% cheaper on average.

Yes.

Spelman: And as a result of that estimate that this whole project would be between 5 and 10% cheaper than your original expectation of \$500 million.

Yes.

Spelman: I'm understanding you correctly?

Yeah, well, I would say on the construction elements, the construction elements of the plant are roughly 350 million. The other elements are for land and engineering and everything. So, you know, the construction portion that's yesterday to be bid, we would expect 5 to 10% on that given the competitive bidding environment.

Spelman: So this slide here, I'll do what you did. It says wtp 4 cost estimates, total 508 million. Does that include money we've already spent or is this money yet to be spent as we go forward?

That's everything. That includes the money we've already spent, all engineering to come that we've done, all land prices, all future construction. It also includes construction inflation between now and 2014. That's the wholly guess you call it net present value estimate of the plant.

Spelman: and taking all that into account, going forward your best estimate is we're going to save 5 to 10% on everything basically we would be spending from this day forward until we've got the thing completed and operational, it's going to be 5 to 10% cheaper if we had done this a few years before or a few years into the future accounting for inflation.

Well, that bullet 2 is -- the 5 to 10% is because of the construction bidding environment that we're in. I'm also saying that if you postpone the plant -- and again these are judgments, they are not like written in stone.

Spelman: Of course.

That you would expect each year you are postponed to -- not only would you lose the competitive environment because I don't think this competitive environment is going to stick around forever. I think that you would -- I know you would assume additional inflationary costs and in general long term construction inflation runs so I think you would incur some inflationary increases in the project mad to losing the money -- not losing the money but not having the competitive bidding environment.

Spelman: Does construction inflation run higher than other goods and services?

Generally, yes.

Spelman: At least it has historically in Austin, Texas.

Yes.

Spelman: I did the spread sheet. Betty Dunkerley wasn't here for us so I had to channel by inner Betty Dunkerley and figure out net present value and even at 10% higher if we can defer construction for three

years, it ends up having a net present value which is 9% lower. Just because we're deferring construction for three years. If this were purely a financial decision, and, of course, it's not, there's a lot of other things involved and it's not purely a financial decision at all, but purely from a financial point of view, deferring this project and starting it three years from now and not starting it right now is more than enough to make it cheaper even if it's more expensive downstream than it would be if we started it right now. Again, we can talk about the details on that, but it can go both ways is all I'm saying.

We would like to sit down and kind of sort that out with you.

Spelman: Of course. One last thing about the jobs aspect. One of the things I'm very happy with what the manager has been doing so the accelerate austin program. Taking our capital infrastructure and moving it forward so we're able to keep a lot of construction people and engineering firms working where they wouldn't have very much work in the private sector, we can give them work in the public sector because it's going to have to be done anyway and taking advantage of the fact it's going to be cost effective to do some of that stuff early. In this context I'm thinking this an argument in plant 4, it's also an argument in favor of fixing our pipes. Do you have an estimate for roughly what scale we're talking about for the conservation program -- the portions. 10-Year conservation plan which are fixing the pipes and building out the reclamation program? What kind of millions of dollars are we talking about there?

Make sure -- you are asking --

Spelman: Just rough estimate for scale. We're talking something like \$400 million for water treatment plant 4. That's the scale I'm talking about is in the hundreds of millions of dollars, somewhere in the neighborhood of four.

Are you asking in our current plan what roughly the dollars are for like main replacement work and reclamation work over about the same time we do plant 4?

Spelman: Yeah -- well, over the 10 years period we're planning on the conservation. I posted for reclaimed water use over the 10 years for reducing water lost because we'll be fixing the mains. I wanted to get a sense for what kind of scale of effort we're talking about in terms of millions of dollars.

I don't think I can -- it's not coming to me. If I could get back to you on that.

Spelman: Maybe this ends up stopping being a question until we can get together and figure out the exact answer and now it will become a comment. I do feel I need to make a comment if we can spend \$400 million on water treatment plant 4 and put a lot of people to work, we could also spend \$400 million on fixing our water mains and building out our purple pipe system and putting people to work. And the question is less the argument in favor of water treatment plant 4 and more the issue of building the system out when it makes financial sense and social sense to make sure people who would not otherwise have work have work to do. But whether it's water treatment plant 4 or fixing our pipes and

current infrastructure and building out our conservation system, is it fair to say that is less important than we're building out our infrastructure and that's what's actually providing the jobs that we're talking about?

Infrastructure investment either at plant 4 or in other ways would create jobs.

Mayor Leffingwell: Could I interrupt you a second? The city manager wanted to make a comment on that topic.

Just the capital investment associated with treatment plant 4 aside, you have a capital program that goes six years out that relates to some of the projects that you would be doing that not only deals with the aging infrastructure but perhaps even would fit in terms of the water conservation side. Can you place a value on what that program is over that six-year period?

Yes, our water and wastewater combined, capital program over the current that we have is about 1.3 billion. So if you take plant 4 off of that, you know roughly say another \$400 million in spending, that means that we're planning about 800 million of infrastructure spending over roughly the next five years starting in the next fiscal year.

Okay. That helps a lot. I would suggest that actually the vast majority of the infrastructure spending in the water utility is not water treatment plant 4, it's everything else.

Correct.

Spelman: If this is a rhetorical question, tell me and I'll unask it and I'll ask it again with the engineers where we can get all the details. Conceivably sit possible we could ramp up our reclamation system and water losses by fixing the mains to the point where it is roughly the same scale of water treatment plant 4?

It's not rhetorical. I would answer in two ways. The first way is yes, we could ramp up programs. The second is we could not ramp up those programs and get that construction bidding done in time to affect this recession.

Spelman: Okay.

The process of solicitation for an engineer, hiring an engineer, going through the boards and commission, council, putting engineers under contract, pipeline is tough. If you said start a new reclaim project that's not on the books, I'm probably back three years or more from now before that's ready to bid.

Spelman: In the recent terms we've all been using it's not shovel ready.

That's -- yes.

Spelman: Thanks a lot.

Mayor Leffingwell: Anyone else? Councilmember shade.

[Inaudible]

Mayor Leffingwell: Just bring more pretzels.

Shade: I don't think they get free lunch. I actually want to get a little more information about how the treatment plant affects the entire system. We've talked a lot about water conservation. I want to shift gears for a minute to really talk about how -- you know, I've heard some refer to as the looping advantage. Can you elaborate on that a bit more, please?

Plant 4, again, as i mentioned on a couple of occasions, includes not only the plant but it includes major transmission lines, pipelines that would carry water for several miles into some of our high growth zones. That if we don't build hose pipelines as part of plant 4, means we'll still have to move water which means we'll have to shift some of those projects to come out of davis and restart or reset those kind of things. Pumping strategies, plant 4 is keyed pumping from not only greenhouse gases but how we approach pumping at davis. If we don't do plant 4 the way davis and rule rich pumps water changes considerably so plant 4 is a part of that. Plant 4 creates a new well water intake, new raw water pumping. Those infrastructure elements are sized to serve through roughly the next century, that we would see those being 100-year. This isn't just adding -- this is adding infrastructure back on infrastructure for decades to come. So that's kind of a part of the infrastructure renewal and it's one of the reasons why plant 4 is a little more expensive is because council really directed us back in '06 and '07 to begin to create that backbone infrastructure. And from kind of looping reliability as I was describing in some of the slides that plant 4 helps us on an aging infrastructure perspective, helps us rehab our existing plants. I descriid rehabbing plants under production like davis or ullrich, it's like you are trying to change the tire on a moving car, that you can never shut those plants off or really kind of difficult to rehab them. They are very tightly grouped in neighborhoods. I mean davis is just 23 acres right in the middle of a neighborhood. Ullrich is kind of similarly situated. Rehab -- plant 4 gives us redundancy in our system and some additional capacity to continue on those kind of programs.

Shade: And how many -- in terms of redundancy what would a comparable city have? There is a way to --

you know, most large cities have multiple plants. As your city grows, you you diversify your plant, your plant infrastructure. In aquifer type -- san antonio has a lot because they use a bunch of different wells. Because we're surface water, we concentrate our water in centralized plants. You want redundancy in the transmission system -- we got a sense of why it is important a couple weeks ago we had one of our biggest transmission mains punctured across the river yet we were able to keep all those customers in water for over a full day because of redundancy in our transmission systems. It's important to always be



keeping redundancy in your system, your transportation of water. One or another we're going to have to move water into the new season. We won't be able to serve others into the future without moving more water that way. And we're either going to move it through plant 4 or move it through davis and ullrich. In the big picture, you have to move more water in those areas and that's going to require additional transmission systems.

Shade: What's the life span of davis?

Well, a plant has various life span elements. The pumping systems are probably 40 to 50 years. Tunnels and pipes are 75 to 100 years. Mechanical equipment could be even 5, 10, 15 years. Tanks are probably 50 years. I mean, you know, major elements of davis are reaching their life cycle. We've been putting a lot of money into davis. We need to put considerable dollars, probably 30 or 40 million in pumping systems at davis. We would need to do some additional electrical work out there. But there have been elements of davis that have reached their useful life. Some of them have been renewed, some need to be renewed.

Shade: What would happen if davis failed?

Don't even think about that.

Shade: I'm sorry. I'm knocking on wood as I say it. I would like some perspective on it. I mean the redundancy and the obstacles for expansion of davis. The big issue from my perspective is this idea of, you know, public safety. This is what sustains us and you are making a good case for it, but I'm trying to understand.

The fail of any major plant, davis or ullrich, would be just a disaster. I mean you know, there's no way to recover from -- until that plant gets back in service.

Shade: So how many people would be without water?

Hundreds of thousands.

Shade: Okay.

And even with plant 4, you know, plant 4 in its first d is not going to replace davis or ullrich. There are hundreds of millions of gallons plants. It helps us start to manage that risk, but even with plant 4, I mean a failure on davis or ullrich would be [inaudible].

And I know I followed as a citizen the debate a little bit, I can't go all the way back to rudy when he was 9 or 7 or however old he was, i guess I was about the same age, but in terms of the environmental sensitivity and the delay and the change of location, I would like to know sort of how sensitive environmentally is the area that we're talking about now for this and are we working with the bcp folks

and can you shed light on that site for me?

Yes, first compared to the bull creek site, it is significantly less environmentally sensitive. That it doesn't have anywhere near the springs or sieves, the salamander habitat is clean, there's no salamander habitat. You might recall this was going to be a planned unit development so it was already going to be developed in this area. We have a very large team of individuals both internally and experts from the outside helping us on environmental issues. We have this environmental commissioning process that we talked about. Watershed is heavily integrated into our team to make sure we're managing impacts environmentally. There are still sensitivities about this site. It is near bcp land so we are taking how we construct plant 4 from a sensitivity perspective very seriously. But comparatively from the original bull creek site to this site they are really substantially different in materials of environmental sensitivity. We were very proud to be able to find this new site and work and get off the bull creek site and dedicate the bull creek to the bcp. We were pleased in that.

Shade: And I guess you may have gotten into this or it may be in some of the printed materials that we have as additional backup, and when we talked about the financial aspects, I am interested also in knowing more about overall operating expenses and how those are affected by this new state of the art -- what kind of savings can we --

we have some numbers as talked about in the written material. You know, it will cost money to run plant 4. We'll have people there, we'll use chemicals and some power. It will use power much more efficiently than the other plants did. Not only because of its elevation, but we'll make sure all the motors are high efficiency. We'll manage the way we use chemicals there. We'll be very efficient. You know, in terms of staff it will be staffed similar to our existing staffs. Two we'll on operations, some maintenance staff, roughly equivalent to the way we manage our existing plants. Er probably some benefits from the newer technology. Probably in the first year the power cost will be at least a million, million and a half dollars less each year. I think those numbers are more specifically in the material that we have. I don't remember them exactly right now.

Shade: I'll look forward to looking at that, but i think as we have the cost conversation we have to absolutely have to to be tore that in. I appreciated this article from the engineering magazine. I am curious to know how this project, you know, I recognize this is a good climate for putting something like this out for bid, but in terms of scale of project, could you give some sense how this would compare to those bids they are watching? I mean is this a top five project in the country? You know, is this a top 10, top 20? Number 1 in I mean in terms of scale and scope, can you give me some sense for that?

From a water and wastewater perspective, not counting major transportation projects, this would be probably the largest plant, water plant or certainly in the top five constructed in -- in the next few years. You know, las vegas, southern nevada has a big plant under construction. I think there's maybe a few others, but this would be a major water plant in the nation.

Shade: So we would expect a very competitive bidding process, you know, regardless of the current

economic situation, you would expect, right?

Highly competitive.

Shade: Okay. I'll stop asking questions for now, but I really appreciate the information and look forward to a lot of continued conversations.

Thanks.

Shade: Actually I did have one other that I forgot. Can you elaborate on the phased approach? Kind of the mini version. What is the time line for that. I'm sorry.

Well, the -- we're building -- some elements of the plant like when you go do marine construction and hire divers to build the in-takes, you build those for 100-year life cycles a lot of plants, the modules of the plant, it's only going to treat 50 million gallons per day. Then it's going to increase in the future on 50 to 75 million-gallon per day modules. And the timing of those, the addition of that additional water capacity is really based on population growth needs, conservation related issues. Again you, kind of have that whole host of issues to weigh. I think one of the points we're going to make that getting over the hump and getting this plan in place really increases future flexibility to delay future modules, that it's hard to build some of the core parts of the plant and once you get through that, then being able to delay future expansions of plant is always an option for the council or for councils in the future to consider.

Shade: The net present value calculation that councilmember spelman just made, are you just addressing only the very first module then? Are you looking at when we look at this project? I was just asking when you made the --

Spelman: Completely distracting me.

Shade: In terms of the calculation that you just did which was more than a back of the envelope, you have a spread sheet, were you looking at with some of the modules added or just the bare minimum this first 50?

Spelman: This is as close a back of the envelope. I put out \$100,000 for five years in a row and estimated net present value if we started right away and started in three years but then it was 110,000 instead of 100.

Shade: So when you are talking about this -- the scope of this, and I realize there's several phases that we go through, but kind of give us some perspective on the add of these various modules versus the cost of the -- of the backbone that you are talking about. A percentage even.

Assuming we have the plant this first phase and the backbone infrastructure completed saying the next 50 d module would probably cost -- I'm going to do envelope, probably 150 million. \$100, 200 Million developments you are not going to spend the kind of money you spent to get this backbone

infrastructure off the ground, so roughly every \$50 million would cost knew today's dollars probably somewhere between -- every 50 million gallons cost between 100, 200 million.

Shade: What we're talking about as we through this time line, march and on, but when we look at the spring, 2010, that's the infrastructure, the backbone as you are calling it and the first module.

Yes.

Shade: And that's the total you are talking b the phased approach would be the flexibility down the road based on growth, based on conservation success, or failure whichever might be -- okay, thank you.

Mayor Lefingwell: Councilmember morrison.

Morrison: You are a very popular man today, greg. Thank you for your patience and answering these questions. I want to follow up on a few things my colleagues have brought up already. I think the question is redundancy is very interesting. We haven't had ability ever i guess to absorb, say, ullrich going down or anything like that. And this would help us build that in. So we're sort of talking about acceptable risk. And is there some kind of professional standard for acceptable risk in municipalities? I mean because it is a bonus to have redundancy, but we haven't had it before. So is there some guideline in making that -- that decision of, you know, the value of redundancy or something like that? Because it is a good thing. We've never had it before. So --

well, I would maybe -- was that a question?

Morrison: Yes, I would love your thoughts on that. Or maybe the city manager can comment on that.

One thing I would add is that we had more redundancy in the past, you know, up until a year or so ago we had three plants and now we have two. So there was a little more redundancy when we had green in service. And green was on a different lake, troy aikman -- excuse me, lady bird lake. In part this is judgment on the amount of redundancy. I think one of the things that is different for us as we look now into the future as opposed to what was not divided it degree from friend in the past is 20 years ago, 30 years ago our two existing plants were not as old. Davis, the original elements of davis are now by the time plant 4 goes online will be 60 years old. Ullrich will be over 40 years old. And as you continue to look into the future and that infrastructure continuing to age, I think that risk of of something happening grows. It is admittedly a small risk. As I said, our plants are not like ready to fall apart. We work really hard for that not to happen. I'm just trying to make the council aware that I think that's one of the considerations on plant 4. But you know, I think maybe we could talk about ways that we might help you better ascertain that risk or give you some additional perspective of other utilities or something. I'll try to see what we could do for that.

Morrison: That would be helpful, I think. And I don't know if that was part of the discussion when it was decided to decommission green. You weren't here when we --

not when the decision was made. I was here for the destruction. [Laughter]

Morrison: The fun part.

I'm not telling.

Mayor Leffingwell: I was nine years old when that happened. [Laughter]

Morrison: When it was built?

Mayor Leffingwell: Right.

Morrison: Now I'm in trouble. I just -- maybe I'll ask some of my colleagues about whether that was part of the consideration when the decision was made to take green off line. Then also to follow up on the way that we're going to pay for this, it's as councilmember cole said, it is not at all coming out of our general fund, it's not affecting our ability to pay for libraries. It is paid for by bonds, and as I understand it we have a couple of different kind of bonds, that's are that top blue line are voter approved, but this is not one of those. We know this wasn't value -- on the ballot.

Actually it was because our bond authority for this went back -- somebody jump up and correct me if I am wrong, but this was on the ballot to BUILD PLANT 4 IN THE 80s. This was approved back when the plant was going to be BUILT IN THE LATE '80s, EARLY '90s.

Morrison: Was there an amount approved, the bonding amount, and how much was that?

I'd have to get that information. I don't know that off the top of my head, but we can get that. And that bond authority has been -- the financial policies allow that to increase with inflation over time so the original amount has been increased via inflation. But we have a summary of that. In your packets we have a history document of plant 4. It might have some of that in there. If not, I will make sure that we get that to you.

Morrison: Okay. So in fact this \$508 million that you are quoting right now, that is within the guidelines of what we approved IN THE '80s? Yes. But I think maybe in a broader sense to your question, in general the utility and including austin energy and others had not -- does not seek voter referendum on revenue bonds. That's state law and I think our legal staff would have to address that. Does not allow or does not require that. R revenue bonds, but in this particular case this does tie back to a voter approval.

Morrison: I think that's another discussion about what goes on the ballot or not. But it is the way -- it's called a revenue bond because we're paying it back with our water utility revenues which is why we're talking about rates going up.

Yes.

Morrison: Because the rates will go up to pay for those bonds as we issue those bonds.

Correct.

Morrison: On slide 22 when you made the reference to the rates going up, you know, 35 to 48 or whatever, a year, is that every year? So my rate would -- as a water customer, it would be "-i would expect an increase of \$50 the first year and then the next year I'll be paying \$100 more and the next year I'll be -- it's just \$50 to pay for it.

Yeah, what would be happen, and this is just for plant 4, just to pay for plant 4, the rate increases for plant 4 would be sequenced out over roughly the next five years as we, you know, cash flow the project. And the total amount from a rate perspective that we're estimating to pay for plant 4 over roughly that next five or six years would be 12 to 15%. Which equates to the 3 to \$4. So that's the -- that's the total.

Morrison: The total. So in the end after five years or whatever, I will have paid an extra 50 times five dollars?

No. Like the first year the rate would go up maybe 2%. You pay -- you know, once the rate is set, you pay that into the future.

Morrison: It doesn't continue to increase.

No, it doesn't continue to increase.

Morrison: That's what i was wondering. And then if we could look at slide 32. The next step. I wonder if you could help me by -- maybe you don't have this information off the top of your head. Do you have values associated with each of these approvals that we'll be looking at in the near future? Dollar values?

Morrison: Yeah, and the construction manager at risk.

The construction manager at risk approval the first phase is pre-construction services. Again, that's pre-construction, no construction. I think our current estimate -- is mime here? It's in the \$5 million range is what I i believe it is. The second item, did comanche , that's a zoning thing. The bullock hole low road construction I think is slightly under \$1 million. On the pre-construction services, those would be spread out over at least the next year. The construction team, the construction manager team would be integrated into the design teams for the plant. They would also be integrated into the design teams for the transmission main. So those costs would be kind of spread out over at least a year if not a little longer.

Morrison: Okay. And do you know the october '09 cost for the approval of raw water, mass excavation and storm --

that would be a construction bid project. I think our current working estimate of that is 4 to 5 million

dollars, but I'll firm that up for you.

Morrison: And lastly the november 2009.

That's a much smaller construction project. I'm going say one to two million dollars.

Morrison: I was just trying to get an idea. I appreciate that. Two more questions. Of these items, are they items that if -- let's say that water treatment plant decision was to defer it for a year. And we went forward with these things now and then we decided later to defer it for a year. Are these items or work that could actually hold over and hold their shelf life basically and come back and be useful a year later?

When you say these items, do you mean the whole page?

Morrison: I mean the august 6 through november 9.

Certainly the august 6 ones fall into that class. October and november, again, they would hold. Although I do want to note the october project, that that significant amount of earth work that we will significantly alter the look of the raw water pump station land with that earth work. So you can -- that could certainly be something that -- I mean that will hold, but, you know, there will be significant earth work with that.

Morrison: And i understand. And then one last question. This \$508 million figure, that's for the phase 1, to complete phase 1. Is that correct?

Yeah, that's to do all of this backbone, infrastructure that we were describing but the first 50 gallons of tanking and pumping.

Morrison: Do we have any estimates of the total if it's built out completely?

You mean when you say completely, like to 300 million gallons?

Morrison: Yes.

I don't have that. We could probably give you some conceptual information on that. Councilmember shade was asking the next 50 million you would add would be considerably less expensive, in the 100 to \$200 million range, but i think we can get that to you.

Morrison: Yeah, I would appreciate that just so we can see the total package.

And that would be spread out over probably 50 to 70 years. That total buildout of that plant.

Morrison: Thank you very much.

Mayor Leffingwell: Councilmember shade.

Shade: Because I had somebody write a note about this. YOU USE THE PHRASE L.E.U.s A Lot and I think I learned what the acronym stands for but could you explain what that means?

Living unit equivalent. That's if you think of one residential house as a living unit, those are equivalent residential units.

Shade: Thank you, I learned that and the asymptotic curve today.

Of.

Mayor Leffingwell: A while back I was going to try to respond to your question about the environmental suitability of the site. It's not only not preserved land, it's not in the habitat acquisition area. It's commercial land, as Greg said, it was slated for development as -- one proposal was a town center actually. No more questions, thank you very much. And don't go too far. We still have eight other items from this morning's agenda plus a briefing from Roma on the downtown plan. We're going to try to get through these items I'm hoping will go quickly and then the Roma briefing if there is no objection from council. This is related --

the brushy creek?

Mayor Leffingwell: 7 And 8. You are on.

I'm going to get my notes on that. [One moment, please, for change in captioners]

your mic cut out in the beginning.

Spelman: It's back again apparently. What is the total cost of the brushy creek system as purchased from LCRA including our share, Round Rock, Cedar Park's and so on?

I'm going to have to have Bart help me on that.

We represent about 10% of that, so it would be about \$107 million in debt, 6 million in consideration and about one percent of that for fees.

Spelman: So we're talking about right at \$120 million, that's in the ballpark. Our rule of that is 10% or so. What's the basis for 10%? Why is it that we have 10% of the system and Round Rock, Cedar Park and so on have other percentages?

It's based on how much capacity we have on reserve for the existing system, which includes some treatment plants and an interceptor system, so it's kind of based on a pro rata share amongst the three cities, Round Rock, Cedar Park, us and then a few 's that go into this too.

Spelman: So that reserve is based on your current use and the reserve you're referring to is a little bit



more than the average daily demand because some days you have to use more wastewater than others, is that right?

Yes. The interceptor system which was constructed for future growth through about 2037, and we have reserve capacity for what we believe we'll be using through 2037 versus the plants, our reserve capacity is just really on the current amount of treatment of those plants. That's currently -- we have 800,000 of reserve capacity at the plant and we're currently utilizing 633,000 gallons of that capacity. We have roughly 3200 lue's that currently flow into this system, but that will expand in the future as parts of the austin e.t.j. And city limits grow that are served by brushy creek.

Spelman: How much lue's are we expecting to be using between now and 2037?

If you look at the total buildout there's some really high potentials here, tens of thousands, probably up to 50,000 lue's over the big picture because this would be pearson ranch, a good chunk of the robinson ranch area. So there could be a considerable number of lue's in the big picture that could potentially flow into this system. But those again would be sequenced out over decades to come.

Spelman: But we're actually paying, as far as the interceptor is concerned, for the reserve capacity based on our estimate for l. E's in 2037, right?

Right.

Spelman: So we need an estimate for the number of lue's is going to be.

The total interceptor?

Spelman: Yeah. We're reserving capacity in that interceptor for a certain number of lue's in 2037. That's what the interceptor is built for, is that right?

Yes, sir. This is bart jennings, austin water utility. We're estimating our portion to be about 50,000 lue's for 2037.

Spelman: That was what I wanted to know is how many people are we expected to live in robinson, pearson and the remaining portion of avery in 2037 and that's about 50,000 living unit equivalents.

Yes, sir.

Spelman: Okay. That's what I needed to know. Thanks very much. Mayor, I move approval.

Mayor Leffingwell: Move approval of item seven and eight. Motion by councilmember spelman, seconded by councilmember morrison. Any discussion? All in favor say aye. That motion passes unanimously. Thank you. And I've also been told that items 53 and 54 are also pulled by expect. They'll go fairly quickly if we can get those out of the way. And you can ask your questions, councilmember, as

soon as --

Spelman: Mayor, my questions have been answered already, so that won't be necessary. I'll move approval now.

Mayor Leffingwell: Councilmember spelman moves approval of 53 and 54. Second by councilmember riley. And any discussion? All in favor say aye? 53 And 54 are also passed on a unanimous vote. So I don't know of any others that are --

Spelman: I pulled item 10 and I'm happy voting on item 10. I read the backup more carefully than I had a just to this morning and i believe it has answered my question.

Leffingwell: Okay. So without objection we'll call up item number 10. If you would like to make a motion.

Spelman: I move approval of 10.

Leffingwell: Councilmember spelman moves approval of item number 10, seconded by councilmember shade. Is there any discussion? All in favor say aye? Number 10 passes on a unanimous vote as well. 17, 18, 46 And 92 are yet to go. And I don't envision any of those being real short. Councilmember morrison, you have 17?

[ Inaudible ].

Leffingwell: Have an hour to go before break. Without objection, let's call up the second briefing of the afternoon, which is a presentation from roma.

Good afternoon, mayor leffingwell, councilmembers, city manager ott. I'm jim robertson with the planning and development review department along with michael knox behind me. We're the co-project managers of the downtown austin plan. You have on the dais in front of you I believe a note book that we've prepared which contains a copy of our presentation this afternoon, but perhaps more importantly contains the two reports that form the basis for the work we will summarize for you this afternoon. Also in there are the appendixes to those reports and the key pieces of feedback we've gotten from the community, the boards and commissions and so forth. I will give a few -- present a few introductory slides and then I'm going to turn it over to jim adams of roma design group who will walk through the density bonus recommendations and jim with hr and I advisers will walk through the affordable housing recommendation. I'll return then to do a little bit of wrap-up and talk about next steps. I'll also summarize for you some of the key community input we have gotten over the prior months. I also would just like to take a moment to thank the work of my colleague, erika leak, as well as rebecca from the neighborhood housing and community development department. They were key staff members on this. There are a lot of new faces both on the dais and elsewhere that have come on board since we began the work on downtown austin plan. I thought it was important to maybe just take two minutes or one minute even and put what we're going to talk about today in the context of the work of the downtown austin plan. And I have two slides to do that. This first one here just summarizes the items that we have cloak wally

referred to as phase one of the downtown austin plan. The first piece of work was the issues and opportunities report. That was the diagnostic work that we presented to city council about 18 months ago in february of '08. We also did a body of transportation-related work in 2008, the urban rail connections reports related to street car and lail. And we have also prepared the downtown transportation framework plan, a working document providing essentially a road map for downtown transportation. The last two items on this slide are the topics we're here to talk about today. What we call phase two of the downtown plan is work we're undertaking right now as well. Of course, this is the body of work that will produce the document that we as a community will call the downtown austin plan. This work is underway and will be wrapped up within the next eight to 12 months. Under -- within that document will be a whole lot of pieces of work brought together, elements of land use and urban design, recommendations with respect to live music and other creative culture ventures, goals and priorities for downtown districts, two district specific plans for portions of our downtown, a parks and open space master plan, infrastructure improvement strategy and so forth and an important piece of it as well. Major recommendations on how we implement this body of work buvment that is what we call phase two work and of course it will produce the downtown austin plan, including all those items. Another topic that has cop up in our -- that has come up in our public meetings and stakeholders meetings and so forth is just a question, how do these two items, affordable housing and density bonus, why are we doing this and how did they become linked to each other? I'm just going to take one or two minutes and summarize that. And I'm not even going to try to -- the slides give you background information that I'll sort of gloss over right now. But essentially the project that I just described, the downtown austin plan, was initiated by a city council resolution in december of '05. In the middle part of 2006 the city council initiated two efforts, one called the affordable housing incentives taskforce to look at ways we could incentivize the creation of affordable housing. And then also the city council directed the city manager to work with the city's design commission to update the design guidelines, including providing recommendations for density bonus programs. So these two bodies of work were moving parallel and we're dealing with a lot of common issues like incentive programs to create affordable housing and so forth. Then in the middle part of 2007 the affordable housing incentives taskforce reported back to the council and among other things the council directed the downtown plan to take on, to consider the recommendations that were presented by that taskforce. And a little bit later in november 2007 the density bonus taskforce, the work of the design commission, came back to council as well. Council directed at that time, first of all, that the city staff begin work on creating an interim downtown density bonus. It also directed that the downtown plan process, which of course at that point was underway, take into account and weave these recommendations into our work in the downtown plan. So in january of 2008 the city council approved that interim downtown density bonus ordinance. That is an ordinance that's on the books today. And then just two months later the council authorized an amendment to the scope of services of our project directing us to develop a downtown affordable housing strategy and a density bonus program for downtown that ultimately would take the place of the interim program approved in january 2008. So that's just a real nutshell of how these issues brought us -- how these issues got to where we are today. Turning directly to our work. In the early months of this body of work, we undertook a number of efforts. Really you can't make responsible recommendations for additional density downtown without having a thorough understanding of the form and the urban design principles of our downtown. So a lot of our early work was to try to evaluate what are appropriate proposals for additional density downtown. We

also wanted this work to be firmly grounded in the economics of downtown development, so we did a lot of work to really get a firm grasp of what are the economic factors that drive downtown development. We also had a series of stakeholder meetings as well as a town hall and joint commission meeting fairly early on to get feedback and also to provide our draft recommendations. More recently we had another town hall meeting. This occurred earlier this month to present the revisions to our recommendations based on community input. And of course, we're here today. Just to summarize what that that process -- you don't need to know all of it, but essentially it consists of three large town hall type meetings, one of which was a joint commissions meetings. We've had about 20 different take sta holder -- stakeholder meetings in which slightly less than 200 people participated and that's about the same number that participated in these town hall meetings. We also have had going on online survey that allowed people to weigh in on their preferences and priorities for the form of our downtown. And we have also on several occasions made information available and answered questions at various board and commission meetings on this topic. With that I'm going to turn it over to jim adams, who will walk you through the density bonus recommendations and then to john oshler with respect to affordable housing and then we'll wrap up.

Thank you, jim. Good afternoon, mayor and members of council. If there's one thing that everyone agrees on in this process, it is that downtown is where density belongs. That a compact and intensively developed downtown core is essential in promoting a healthy and sustainable region. This is particularly poignant after the previous discussion when you consider that per capita water consumption for a downtown household is less than 25 percent of its suburban counterpart or that a downtown resident travels 33% of the roadway distance of a suburban resident. A vibrant downtown will also enhance the competitive position and identity of the city. In short it is in our interest to promote well considered density in the downtown. When you look at downtown austin, we know that there is considerable room for growth. Although we've experienced the healthy cycle of residential development over the past 10 years, the downtown is still in its formative years, particularly when you compare it with other cities that we look to as models of healthy growth. Portland, for instance, on this chart is shown with -- on this chart is shown with a population density of twice what we have in austin. Also when you consider recent development trends, we see that some projects are beginning to achieve higher levels of density than what the base zoning provides. For instance, the aws tonnian which is nearing completion downtown will have almost three times that of when it's base zoning is in the downtown 8 afr. The far, floor area ratio of 11. The spring condominium project will have more than double the floor area permitted under its base zon of vmu, which has a five far. These are healthy trends that show a maturation of the market in downtown austin. If we look at commercial development we see that that sector for office and hotel has not achieved the same levels of density as residential. Most office and hotel projects in the downtown are really pretty much at their prescribed density. For instance, the two most recent office developments, the frost bank tower and the carr american tower are at eight f.a.r. and 6.4 f.a.r. Respectively. The hilton hotel is one of the few nonresidential developments completed in downtown that have exceeded at a 10, 10 times the site area. Density bonus programs are used in many cities across the country to promote intensification and economic development. To provide developers with a clear and understandable path for surpassing density limits and in providing the community with clear benefits in return. To be effective, however, density bonus programs work best where there is limited

land and strong development pressure. To be successful bonuses must result in clear benefits to both the community and to the developer. In other words, a win-win type of situation. The goal of the density program -- the goals that we've set forth on these four elements. We have to make sure that the density program provide a mechanism that is predictable and understandable and can be administratively facilitated so that every application for additional density does not have to go through a long and protracted community process. We want to make sure that the program is based on current economic conditions as best we can predict them. That they support continued healthy growth and that we achieve clear community benefits. As jim pointed out earlier, the three main elements of this study process has been urban design testing. We took nine sites throughout all parts of the downtown with a complete spectrum of zoning designations, and tested different density scenarios on those. We did economic pro formas of each of those sites. And then we presented those findings at various stakeholder focus group sessions and in the town hall meeting. We basically have six foundational principles for the program and these basically are also very much part of our recommendations. The first is that we want again to encourage density. We do not want to penalize it. We want to make sure that developers have an economic incentive to use the program. This is a chart that john's group prepared. If there is no incremental value or no increased rate of return for a developer to do -- to pursue additional density, we don't believe there should be a fee or a bonus provision in place to deter them from achieving that density. If there is increased value, we think that a fee can be supported. Secondly, we believe that the existing zoning heights and densities that are in place downtown should be the base for the program. We want -- we believe that this will promote and stable and predictable real estate market. There is one exception to this which I'm going to talk about in a moment, and that is the warehouse district, where we propose a change in the height limits on one particular block. I'll get to that in a moment. The third principle is that we believe that high quality urban design should be required of all development. We don't believe that it should be an award for the density bonus program, that the density bonus program is not the most effective tool for regulating development form. As such, as part of the phase two process we are developing for your consideration more detailed development standards that we are proposing to put in place. In the meantime the existing design guidelines would govern the density bonus program. The fourth recommendation and principle is that really for a density bonus program to be effective there really can only be one predictive pathway to the density bonus. Currently developers have an option for that process. Since the density bonus 2008 program has been in place, no developers have opted to use the density program, they've all gone through the cure process. We would recommend if the density program is to be reassumed that the density bonus program shall be replaced by the new program. The fifth principle is that while we are encouraging additional density in many parts of the downtown, there are portions of the downtown where additional density is not appropriate. This map here shows areas where we are exempting certain areas of the downtown from the density bonus program. Quickly this includes the entire judge's hill neighborhood in the northwest quadrant of the downtown and blocks surrounding it, including portions of the northwest and uptown districts. These are portions of the city that have single-family used properties as well as a fabric of single-family 19th century and early 20 the century single-family homes that we feel that need to be protected. Also the (indiscernible) block and the vicinity around it, the sixth street national register district and the waterloo compound as well as the warehouse district, which again I'm going to talk about in a moment. We also in this map show maximum densities above the baseline that properties could be

eligible to apply for through the density bonus program. Within much of the cbd we're proposing densities up to an f.a.r. of 25 to one. That would be comparable again to the austinian. That transitions down to 15 to one in the area -- in the lower shoal creek area and in the rainy street area and in the area north of the capitol. Transitioning further down to an eight to one f.a.r. With a maximum 200-foot height along the martin luther king corridor next to the uno development in the west campus. And then transitioning further down to a three to one adjacent to lamar street, lamar boulevard. The area west of lamar, which is technically part of the downtown plan area, but not really part of the downtown, is exempted from the density bonus program. And the final principle is that community benefits need to be focused. One of the criticisms of other density bonus programs is that they can end up being very complex and end up being like christmas trees. We've tried to focus on five key areas of risk, affordable housing, climate change and sustainability, historic preservation, cultural vitality, preservation of live music venues, and open space. The key economic findings of the analysis that our partners, hr and a did are summarized on this slide. What we found when we looked at the range of density bonuses for residential projects is that residential development can support a public benefit fee, and depending on where you are into downtown it could range from five to \$10 a square foot. That means that if a developer pursuing additional density beyond what the baseline zoning allows would typically achieve higher rates of return and higher incremental value by applying that density. We estimate that a fee of \$10 a square foot for bonussed floor area in the core waterfront, rainy and lower schultz district is supportable and would continue to provide an incentive for developers to pursue that density. Other portions of the downtown where you cannot achieve as high a development, where you get higher value units, we are projecting a five-dollar a square foot fee. Commercial development, what the economic findings were is that additional density does not necessarily produce sufficiently higher revenues to justify charging a fee. And given that one of the key goals of the downtown plan and of the city is to continue to attract office, hotel uses to the downtown to maintain its competitive employment position and its position as the regions main visitor destination, we did not feel that it was appropriate to levy a fee at least at this time and in this market on commercial development. So what this diagram is showing is the proposed pathways that a developer might take to achieve additional density. I'm going to quickly summarize these. All projects seeking a density bonus have to meet three basic requirements. First of all, they have to be within an area of the downtown that's eligible for the density bonus, as i mentioned earlier. They need to provide schematic level design plans so that one can understand what is being proposed and what effect that project would have on its immediate context. The project needs to commit to implementation of great streets and have substantial compliance with the urban design guidelines. We are recommending that the urban design decision of the mpdz staff make a determination as to whether a project meets those criteria and then presents that to the design commission for their recommendation. So those are the basic gate keeper requirements. A residential project, what we are suggesting is that any residential project seeking a density bonus must achieve at least 50% of their bonus floor area by contributing to affordable housing. And they can do that in one of two ways. Constructing affordable housing on site in 10% of that bonus floor area or by paying an of five dollars to \$10, depending on where they are, for that bonus floor area. This is not very different from what has been proposed by the existing density bonus ordinance. Some variations are the variation in the fee, and we also are not recommending that commercial development again be leveled for that fee. The definition of affordable housing is in the asterisked for an owner-occupied unit we are requiring that

those units be available for a period of 99 years. Supportable for an occupant with a gross household income not exceeding 120% of mfi. For rental units 30 years, income not exceeding 80% of mfi. These levels of affordability correspond with the workforce housing and john will talk about that in greater detail in a moment. For a nonresidential development, what we are proposing is that as of an office or a hotel development would achieve 50% if they meet the great gate keeper requirements, a if they're in an eight f.a.r. Zone, they would be i if they meet the gate keeper requirements. This again is to promote downtown as the principal commercial center and visitor destination in the region. Now, once a project, a residential project has contributed at least 50% of its bonus floor area to affordable housing and a nonresidential development -- if a nonresidential development wants to exceed the 50% density bonust is suggested, there are a menu of other public benefits that a could pursue and they're listed on slide, family fridly housing, three-bedroom units are bonussed because the key goal is to promote a diversity of housing and families in the downtown. Facilities, child care and senior elder care that meet applicable state and local standards would be bonussed. Provision of live music venues or cultural uses. We have specific bonus provisions for those. Historic preservation of the warehouse district, which i will talk about in a moment. Green building, buildings that achieve three, four and five star rankings from the austin energy green building program would be bonussed proportionately and publicly accessible open space on site, plazas, gardens, courts and the like would also be provided specific bonuses. Let me talk a little bit about the density bonus program as it applies to the warehouse district. This has probably been the most challenging aspect of the density bonus. Lots of discussion and interest in this. We believe that the warehouse district -- we pointed this out in the phase one -- is really a unique part of downtown. It rawnt and entertainment district that contributes to the economic vitality and to the destination appeal of downtown austin. It is the last contiguous concentration of 19th century and early 20th century buildings and it is a significant live music venue. It's something that we believe would be impossible to replace. So we are proposing some measures that would provide for its preservation. Currently there are no policies in place that would allow -- would promote preservation of any part of the warehouse district. Someone could come in and redevelop any portion of it. What we're recommending is a two-tiered program, a core preservation zone on fourth street between colorado and lavaca streets. This is the most intensive portion of the warehouse district, the area that most people think of when they think of the warehouse district. What we're suggesting here is that height limits be limited to 45 feet to promote preservation of this area, not unlike what you have done on east sixth street. But in order to mitigate the effect of that reduction of height limits, we're recommending that property owners in that area be allowed to sell unused up to a floor area ratio of 25 to one, which is the same density that we're proposing for the density bonus program in other parts of the downtown. So a property in that area that is 50 feet wide, 128 feet deep, would be able to sell its density for 5 million, which translates back to about \$230 a square foot for the land, which is a considerable amount of value. Remote downtown as the principal commercial center and visitor destination in the region. Now, once a project, a residential project has contributed at least 50% of its bonus floor area to affordable housing and a nonresidential development -- if a nonresidential development wants to exceed the 50% density bonus that is suggested, there are a menu of o public benefit that a could pursue and they're listed on slide, family friendly housing, three-bedroom units are bonussed because the key goal is to promote a diversity of housing and families in the downtown. Facilities, child care and senior elder care that meet applicable state and local standards would be bonussed. Provision of live music venues or cultural uses. We have specific bonus provisions

for those. Historic preservation of the warehouse district, which i will talk about in a moment. Green building, buildings that achieve three, four and five star rankings from the austin energy green building program would be bonussed proportionately and publicly accessible open space on site, plazas, gardens, courts and the like would also be provided specific bonuses. Let me talk a little bit about the density bonus program as it applies to the warehouse district. This has probably been the most challenging aspect of the density bonus. Lots of discussion and interest in this. We believe that the warehouse district -- we pointed this out in the phase one -- is really a unique part of downtown. It rawnt and entertainment district that contributes to the economic vitality and to the destination appeal of downtown austin. It is the last contiguous concentration of 19th century and early 20th century buildings and it is a significant live music venue. It's something that we believe would be impossible to replace. So we are proposing some measures that would provide for its preservation. Currently there are no policies in place that would allow -- would promote preservation of any part of the warehouse district. Someone could come in and redevelop any portion of it. What we're recommending is a two-tiered program, a core preservation zone on fourth street between colorado and lavaca streets. This is the most intensive portion of the warehouse district, the area that most people think of when they think of the warehouse district. What we're suggesting here is that height limits be limited to 45 feet to promote preservation of this area, not unlike what you have done on east sixth street. But in order to mitigate the effect of that reduction of height limits, we're recommending that property owners in that area be allowed to sell unused up to a floor area ratio of 25 to one, which is the same density that we're proposing for the density bonus program in other parts of the downtown. So a property in that area that is 50 feet wide, 128 feet deep, would be able to sell its density for 5 million, which translates back to about \$230 a square foot for the land, which is a considerable amount of value. We believe that there will be a market for this transfer. Other cities have shown that a transfer in portland, it is one of the most prescribed elements of their density program and the fact that we have concentrated the sending zone of this transfer of development rights to a very small area we believe there will be a market for it and that it could be a very effective tool for preserving the warehouse district. Within the area surrounding that core preservation zone, this would be the warehouse properties along fifth street and along colorado street we're suggesting two options. One is participation in the density bonus program, redevelopment up to the full just like any other property surrounding it, or giving them the option to sell up to the eight maximum. Any property selling unused would be required to pursue landmark designation of their buildings, assuming those buildings were 50 years old. And to record any reduced by a restrictive covenant. All new construction and modifications to existing development we would propose district design standards that would ensure compatibility with the existing historic fabric that remains. These are some of the elements that we would suggest be in those design standards, retaining the existing elevated sidewalks, a step back above a certain height to make sure that new development is in -- is comparable in scale. Awningsed, canopies and curb cuts. In conclusion we believe the density bonus program can be one effective tool in promoting the fundamental goals you have described for downtown, sustainability, affordability and authenticity. It's not the only tool that we need to be using. We've described those in other presentations. We believe that the program will establish a predictable, understandable framework for granting density and that that framework can be adjusted over a period of time to respond to changing market conditions and based on the performance that the program demonstrates over its first five years. And with that, I will pass it over to john to talk about the affordable



housing strategy. [00:06:14]

Thank you, jim. I'm going to move pretty quickly through the introductory slides so we can concentrate mostly on our recommendation. Throughout our conversations with city staff and the very wide consultation that we engaged in with the community, it was clear that there was a very wide range and intensely felt set of aspirations for affordable housing in the downtown, dealing with both the character of affordability, the need for home ownership, the need to create a live-work balance, and the need to have affordable housing as an essential element of an increasingly vibrant downtown. People were also quite sensitive to the fact that downtown remains a work in progress. All of you on the dais could remember a time not so long ago when downtown development was an unusual event. And in which the current green shoots of energy, to use the current cliches, has begun to emerge. So it's important in our mind to have an affordable housing policy that both meets to the extent possible the substantial needs that remain, but also is sensitive to the other needs to develop downtown as a vibrant commercial and residential center. In that sense affordable housing is part of an integrative plan for the future of downtown. A downtown should be everybody's neighborhood. It should be a place where all families can come to live, to work, to play and to experience the lively energy and character of downtown. As this chart makes abundantly clear, the private market will not make that possible. New construction in downtown is roughly seven times in a condo at the median sales price what a family at 120% of median income could afford. You can see a substantial gap between that and what the private market can produce downtown. This is a function not principally of land price, but land price is somewhat elevated in the downtown. It's principal pally a function of the requirements inherent in the cost of building vertical construction, the need for parking structures, and much more expensive forms of development. It's similarly true in the rental market. While the gap is not as great, here the affordability is not 120, which is principally that which we have used for workforce housing, but affordability here is defined at 80% of median appeared likewise you see a gap between what a median family in this region can afford and what a median unit costs in a hi-rise or a mid rise in the downtown. This is in the context of substantial unmet demand. The principal sources of unmet demand are at two ends of the affordable housing spectrum. Those families of individuals most in need whose affordability requirements are substantially below the median family income, and then there is a significant gap in what we call workforce housing. The need for those who live -- those who work in downtown to be able to afford a unit that is near their place of business. And while downtown, interestingly enough, given the historic decline in downtown, and the downtown as a place that has seen less favorable development trends in the post-war era, downtown remains unbalanced, more affordable in terms of median family income. It has a higher percentage of those below median. On the other hand, it is obvious given the kinds of slides my colleague just showed you that the trends mitigate substantially against that. Downtown development in the recent decade has principally been for the more after fuente portions of your community, which is more similar to other communities. And I think we can foresee in a very short period of time where median income in downtown will exceed that as the median income of the community, a trend that's likely to continue for the foreseeable future. So the exercise as we viewed it was one of allocating scarce resources. Your community like any other in america, since the federal government has engaged in its now several decade long retreat in the level and scope of its funding of affordable housing, something that has characterized federal policy now for two generations. There is really no local

government in our country that has the resources to meet the gap imposed by shifts in federal policy. And so we're in the process of taking scarce financial resources and allocating them consistent with policy objectives of a community. In an environment whereas my colleague showed you in this slide, downtown is less dense and in order to meet a whole variety of your policy objectives should become an increasingly dense part of the community. This is one of I think the more important data points that shaped our thinking. As I mentioned earlier, it just costs more money and significantly more money to produce a unit of housing in downtown. This shows you the required public subsidy. And while this will move in dollar figures given costs of construction and rental levels, the relative relationships are highly unlikely to change and what you see is this roughly three -- what you see is roughly three times more expensive to produce a unit of housing in terms of the subsidy required between a mid rise product outside of the downtown at 120% of median and of the same unit in the downtown. Again, you could zero out land price, you could zero out governmental fees, and it would have really only a modest part of this relationship, principally driven by construction costs. So what this sets into motion is the tension which all affordable housing policies grapple with, between the very admirable goal of geographic disbursal and allowing of those at all levels of the income spectrum to reside in a downtown area. Certainly all would share. And then the contra intention, which it is extraordinarily expensive. And since dollars are limited, the more households at the lower end of the affordability scale in this instance, in our work defined at 80% of median and below, that are housed in the downtown core, obviously the fewer numbers of families that can be assisted. You want to use a rough ratio, it's roughly three to one. You can support affordable housing for three times more families if you're at 120% than if you were at 80. So we have tried to balance, and I think all those that we've had a dialogue with have tried to balance a desire for a geographic diversity with an understandable need to service as many households as can be served. And it's important to note that the density policy that jim has outlined to you is an important step, but really only one incremental piece in an affordable housing policy. We've set a goal of roughly 1,200 units, which we view as about 10 percent of the potential growth of downtown. In other words, our goal inherent here is that 10% of the units that are produced between now and 2025 in the downtown would be affordable. Only about 300 of those or 20% of the workforce housing goals in the downtown will be met by the -- by the density bonus program. I think the density bonus program is going to become more and more affordable as downtown prices rise, but that's no event that will occur in the near term. And current policies have been useful, but I think all need to acknowledge their effects have been limited. If these affordability goals are to be met, additional policy actions are required. So let's shift now from context to our recommendation. There are two core elements here that underlie our thinking, and that of my colleagues at roma. The first is that what we call the downtown core, the central business district, the objective of affordable housing in the central business district should be workforce housing. It should be those families that are at 120% of median. Those who cannot by any means, way, shape or form afford housing in downtown today, but families who have some capacity to pay a significant portion of their shelter costs. And that that be the primary goal, and we've established an objective here as I said of 1400 units. The second major goal we think which is critical to the downtown is supportive housing. As all of you are aware, the requirement of this community to care for those individuals most in need with problems with alcoholism, problems with drug abuse, problems of mental health, have made them among your most vulnerable citizens, are not appropriately housed and there are not the kind of options in your community that many of the others have been able to create that produce a humane and

reasonable living environment. So the second principal recommendation we're making in regard to the downtown is that in addition to workforce housing, there be a very substantial and important and we believe immediate attention applied to creating supportive housing. The second major relation we're making is that the city establish a concept what's called a housing fee investment area, which is the area immediately around the downtown, roughly a two-mile radius. We are not suggesting that any of the existing neighborhood plans be altered, that the levels of affordable housing that those neighborhoods have set through their own planning processes remain the consistent vision that those citizens have set. But we believe that the appropriate place consistent with those neighborhood plans, consistent with the visions crafted by those citizens and those communities, that the appropriate place to locate affordability below 80%, so more families can be served, more individuals in need can be providing the assistance required, that that occur in this housing fee investment area. So there's a very simple structure here. There's a downtown central business district for which the objectives are workforce housing and supportive housing. Then there's the housing fee investment area for which the principal objective is serving those below 80% of median. The housing policy outline therefore provides a range of housing types. It addresses quite specifically the needs of special populations. I reference the homeless earlier. Attention needs also to be paid for the elderly, those with HIV and AIDS and particularly given the enormous importance of this community to this city, those of artists and musicians. So those are the policy frameworks that we suggest to you for your consideration. Let me move to recommendations. We've divided our recommendations into two parts, what we call long-term and short-term. I want to start with long-term thousand those communities -- because those communities that have been successful, and by success I mean both numbers and economically efficient. Using scarce dollars to produce the most significant number of units. They have built affordable housing systems. And while Austin has an admirable history and an impressive governmental capacity, the not-for-profit sector is not as robust and doesn't have the range of tools in building an affordable housing system as communities of Austin sophistication, Austin's size and Austin's affordability aspirations have elsewhere. So we believe there are four elements of programs. I'll get to organization and structure in a minute. The first is that the city work collaboratively with the private sector to establish revolving loan fund. There are a series of products, whether or not it's land acquisition financing, whether or not it's interim construction financing, whether or not it's guarantees on long-term financing, whether or not it's reduced rate programs on takeout financing. There are a series of products that I think such a revolving loan fund should offer to not-for-profit developers. We can talk about that if you wish, but the important thing is to establish such a fund. So it's available, it's predictable, it has resources, it has a series of defined products that the development community, particularly not-for-profit development community, understands and can rely upon in an organized and systemic fashion. We believe that will accomplish two things. It will take the existing governmental fund and grant programs and allow them to produce more housing at lower public cost. Secondly, it will allow you to effectively leverage some federal programs like the new market tax credit in a greater volume than you've been able to date, and allow you also to leverage private capital. Secondly, we believe you should expand the fee waivers beyond that when you currently offer and that fees are veed by many of --ly --ly veed by many of your government unit are certainly necessary and appropriate, ought not to be placed on housing which is designed to serve those families most in need. That their ability to pay, since obviously any fee place odd a developer simply passed on to the resident. That there be some progressiveness introduced to some of

the fee structures that are present. As part of that we believe that while austin's rate of foreclosure is substantially BELOW LITERALLY ONE-10th Of some of the worst parts of our country, difficulties that many have been induced in through the subprime mortgage market provides the city some opportunities to acquire housing at certainly below market price. My colleague jim described the density bonus program and then finally we believe the city should adopt a right process that allows economic development grant, what we might call elsewhere the country tax abatement so that tax abatement is made available on those units that are affordable for roughly the same rationale that I outlined in regard to fee waivers. We believe that creates a long-term system. Short-term we would suggest five things. The first I've already mentioned, model projects is our shorthand here for the construction of a 170 bed, plus or minus, of sro facility in downtown. We believe that a very affirmative set of discussions should be held both with the city, the county and the state in regard to the utilization of public land. There is significant public land available. We're recommending an adoption of a policy that says 20% of the housing built on public land be set aside as a matter of policy for workforce housing. Direct subsidy be provided in a very effective way by this council through a public bond. That public bond, because it has been so successful, it's oversubscribed. There's more calls on its requirements than there is cash available. And we believe a new bond issue is required in order to continue to meet the needs of affordable housing. I described previously the opportunities provided by foreclosure. You also have a problem which confronts many urban areas in our country in which as the section 8 program matures, many units which have been affordable by contract between the government and the developer for up to 30 years are no longer going to be protected as the time period of those contracts expire. And we believe it's important for the city to intervene when it is able to do so, and it has willing market participants to act effectively to preserve the affordability of those units so that in the face of a shortfall of affordability to dip in with, there's no detriment in units already available on the marketplace. And moving from program now to organization and structure, we are suggesting the city consider creating a downtown workforce housing corporation. These programs are complex. The administration of a loan fund requires skilled underwriting in order to preserve the quality of the asset and to work effectively with borrowers. As your very able staff well knows, each of these developments usually requires multiple layers. We do deals with seven, eight, nine, 10, 11 different sources of financing. The predevelopment costs of assembling those things are enormously onerous. We believe the city will be well served by creating an intermediary corporation. Perhaps it's a cdfi. In other words, it's also eligible for a variety of federal sources. And it becomes the intermediary corporation in which the city is able to use to package and create a lasting system that in fact can create affordable housing. So there are some slides at the end that talk about the dollars. We can go back to those details if you want. But this is an overview of the financing systems. We believe that there are a series of public dollars, cdfi program, pure bond financing, a series of important private sources, private foundations, conventional money from banks. And then the money that is made available by the national intermediaries such as lisk and enterprise, along with fees from a density bonus program. I think I'll stop there. There are some slides at the end, but I think you get the gist of where we're going. Thank you for your time and attention, and I presume the city staff, jim and myself are available to answer questions. I think jim has a couple of concluding observations. [00:28:20]

Thank you, john. I have just about I think four more slides. And the purpose of these slides is to provide

you with at least a summary of some of the major areas of feedback we've received. We felt like it was the responsible thing to provide you with that and also in deference to all the people who took time and effort to provide us with input. I will summarize those areas of input in a couple of occasions I would provide you a little bit of what our proposed response to these areas of concern; but certainly we can answer questions. Let me use this as an occasion also to extend our invitation if we can follow up in any way with you individually with your individual offices or in any other way, we would be happy to do that. One of the areas of significant feedback we've gotten had to do with the issues that are embodied in this map of areas of participation and maximum heights and densities. For example -- and I don't want to say these are the only ones, but I want to give you at least a flavor or a sense. For example, in the judge's hill area we have had a lot of discussions with interested stakeholders. As to how their neighborhood should be treated from the point of view of being eligible or ineligible for the density bonuses and so forth. And how even beyond that how the edges of their neighborhood should be treated. I should note that, as i believe jim pointed out, the entire judge's hill neighborhood is contained within the area that is hatched on this map that is not eligible for the density bonus program. And so that's at least one element of our response there. Another area is number two on here, the lower shoal creek market area. And I didn't put these in here to be comical, but we have heard concerns about too much height in density that we are proposing in this area. We have also heard concerns about too little height in density in this area. Which tells you we've heard a wide range of responses on this issue. We've tried to use professional judgment and a close study of actually the physical nature of this area to come up with a recommendation we make to you as shown on this map. I will talk just a little bit separately about the warehouse district. Certainly it's shown on this map as an exempt area for density bonuses and I want to talk about that and i want to talk about the issue of compatibility a little bit separate.

Mayor Leffingwell: Can I interrupt you? Are you within minutes of concluding --

yes, we are.

[00:31:00]

Mayor Leffingwell: We 30 break right here.

The warehouse district. We have heard a wide range of district as to first of all the basic issue is the warehouse district an asset of our downtown that we want to as a community to to preserve, all the way from one end of the spectrum to the other. We've heard a lot of feedback as well about the proposition, the recommendation of this core of restrict be height in the core area. How much is the right to protect of the warehouse district? How much do you need to make it what it is? We also heard comments about will the tdr system that we propose be effective in order to protect it? Certainly we can follow up with any questions you have. I refer to compatibility, and I'm going to try to summarize the concerns we've heard about compatibility. Obviously when you make the recommendations that are embodied in this map, you're talking about some areas where we are saying not only is density available, additional density, but it is encouraged. And other areas where it's not and we're trying -- and then you have these edge conditions where you need to address the issue of compatibility. And I say that with sort of a lower seat,

not necessarily talking about compatibility standards here. I first want to make clear that this report, this recommendation to you in and of itself does not recommend any changes to our city's existing compatibility standards ordinance. In the same breath that we've been saying that and that I say that to you today, in the interest of full disclosure, in our work in the downtown plan, we have begun to evaluate is the same compatibility standards that apply citywide, that apply for example in far southwest austin, is that the same compatibility standards that are suitable and that allow us to meet our goals for downtown? We are -- that is a body of work we are undertaking as part of our phase two work that I summarized for you. But concerns have been raised. Should this program move forward while at the same time we have this continuing evaluation situation of -- evaluation of compatibility standards. I want to return to that in my last slide to put out for your consideration our recommendation as to how we respond to that. Two slides about affordable housing, we've heard input that a lot of downtown interests would just as soon keep downtown dollars, dollars generated downtown for the creation of affordable housing. We've also heard concerns expressed from neighborhoods with who this induce a neighborhood to receive more than its fair share of affordable housing? What about neighborhood plans and existing zoning? Real quickly our response to that is first of all this notion of the housing fee investment area is drawn straight from the existing interim density bonus that is already on the books today. It's not an entirely new proposition. And as John Oshler summarized, the basis for our recommendation of taking dollars generated downtown and spending them outside of downtown is in essence more bang for the buck as he more artfully stated than I did. And the fact that these are areas near downtown. They have probably better transit and other connections to downtown than a lot of other parts of our city. And therefore there's a logical nexus between these areas and downtown. I want to make it clear, though, that nothing in our recommendations proposes that any neighborhood receive more than its fair share of affordable housing. And we propose that there would be no changes to neighborhood plans or to s as -- entitlements as a way of affordability through the funding source that we've identified. We've also -- this is the last slide on affordability. We've heard concerns express that had we should be achieving deeper levels of affordability. As I think John made it clear, our recommendation to you is that our efforts downtown be focused most highly on the creation of supportive housing and housing, though that's not to the exclusion of trying to seize opportunities to obtain all levels of affordable housing in our downtown. But our recommendation those two categories, the supportive housing and the workforce housing. And finally this is the -- this is our last slide. In terms of next steps, and this is where I weave back in our proposal with respect to dealing with compatibility issues. We are on your agenda for August 20th to return to you, and at that time to ask from our point of view will be to seek your approval of the density bonus report. And if it suits your will to direct us to move forward and begin work on drafting an ordinance -- on crafting an ordinance that is based on the density bonus recommendations in that report, that would ultimately produce a density bonus program for downtown that would replace the interim ordinance that we have today. We would work on that -- we would do that work in the remainder of 2009 and the early portions of 2010. What we propose with respect to -- this is specifically to address the issue of -- the concerns about compatibility, is that when we come back in August we will at least present to you a concept of what we project to -- what we propose on compatibility standards downtown. And then as we side by side with preparing a density bonus ordinance based on this or the, we would also prepare what we propose to do for a downtown compatibility standard. And we would not return to you with the density bonus until we could also return

to you at the same time with our recommendation for compatibility standards. That way those two could be evaluated through the public input process through boards and commissions and by you as a package. That concludes our presentation today and, as i said, we're happy to answer questions.

[00:37:04]

Mayor Leffingwell: I know there will be a few questions, but we're at our break time for live music and proclamations. So we're going to have to take a break and would request that -- I know some of you have airport connections and if you have to go, you have to go, but I'm sure you can stay and answer questions after the break.

Absolutely.

Mayor Leffingwell: Okay. We are now in recess for live music and proclamationed. [00:41:13]

Mayor Leffingwell: it's time for live music in austin, texas. And the city council chambers. And tonight joining us is steel guitarist and leader of combo mahalo, anthony lok. He's been in austin for more than 10 years, has howard nationally and internationally. One of anthony's compositions was featured in a national lampoon film. That's quite an accomplishment. And he has performed on numerous cd's by wayne hancock, dave biller and his own hawaii wan combo mahalo. Please join me in welcoming anthony lok. [ ?? Music playing ?? ] [00:44:07] [ applause ]

do you want me to play one more? [ ?? Music playing ?? ]

> thanks for covering me, by the way. [ Applause ] great. Do you want to do a little free advertising and tell us where you're playing around town?

Well, on monday the 27th we'll have a benefit at the continental club. A lot of great austin musicians are going to perform. The wailers, the white coast slivers, the box car preachers. 11 Bands for 10 bucks. That will be the next time you can see us.

Mayor Leffingwell: That's less than a dollar a band.

It is.

Mayor Leffingwell: So that's continental club on say the date again?

Monday, july 27th. to 2:00 a.m.

Mayor Leffingwell: Okay. I'm sure that's not against the law since you said it right here. [ Laughter ] okay, guys. Thank you. I have a little proclamation to read for you. It says -- by the way, this is an official proclamation because it's got a seal on it. Be it known that whereas the local music community makes many contributions towards the development of austin's social, economic and cultural diversity and whereas the dedicated efforts of artists further austin's status as the live music capitol of the world. Now

therefore i, lee leffingwell, mayor of the city of austin, texas do here by JULY 23rd, 2009 AS ANTHONY Locke day in austin, texas. Thanks a lot. [00:47:02] [ Applause ]

Mayor Leffingwell: Now, folks. We're going to start off by honoring another group of city of austin employees. As many of you know there's an active program for mentoring and volunteerism within the austin public schools, and the city of austin of course takes a very important part in that and so we want to thank you for your contributions. I'll read the proclamation. Be it known that whereas the city of austin employees have the unique opportunity to make a difference in a child's life through volunteerism throughout the austin independent school district through partners in education and whereas employees serve as mentors or tutors at aisd schools as well as at nine city libraries, making the city mentor and tutor program for the I volunteer program in austin with more than 400 volunteers. And whereas the city of austin was honored by the texas education agency with the prestigious employers for education excellence gold award for its support of aisd through this program, and was inducted into the partners education hall of fame for being the largest contributor of volunteers to their programs. Now therefore I lee leffingwell, mayor of the city of austin, texas, do here by proclaim july and august of 2009 as city of austin mentoring, tutoring program recruitment months in austin, texas. And I do want to say before I turn it over to kathy here to say a few words, I'm a little bit familiar with this program. About two years ago a group of us on council went over to o'henry middle school to talk about this program with the people there and we actually had the opportunity to sit down and do a little mentoring ourselves and got into an eighth grade math class. And believe me, it was very interesting helping them with their problems. So hopefully we made some progress and didn't take them back too many grades. [00:50:27] [ Laughter ] I'll give you this -- do you want to take the proclamation, kathy, and you're welcome to say a few words.

Thank you, sir. On behalf of the city of austin mentor and tutor program and the organizations that we partner with to allow this program to happen, I just want to say thank you for giving us this proclamation. Last year we had almost 450 city of austin employees that tutored in aisd schools, and this year we are looking forward to increasing that number and putting more of our employees into the schools, helping austin students to be successful. And it's because of collaboration and support like this with the city council and all city departments that this program is such a success and so unique. So thank you so much. [ Applause ]

Mayor Leffingwell: Thank you for doing this. It's very important. I'd also like to let ben say a couple of words. He's also a participant in the program.

Thank you, mayor. I just want to tell you that our program for the city of austin is being considered as a model for other cities in this state, and we are very, very proud of that and we're very happy as volunteers for the city organization to enhance the quality of life for our students all over constituent. Thank you very much. [ Applause ]

Mayor Leffingwell: And we are honoring another city employee. And many people don't know this, but the city of austin has a very extensive list of programs that we use to help our small and minority businesses in community. And what we're trying to do now, I've seen a few psa on channel 6 trying to educate the public on all the services that are available to them. And my office is going to take it further



in the coming months working with the austin independent business association to figure out how we can bring all these programs together and make them more available to the public simply by letting them know what is available to them. In addition to that, asking for their suggestions on what can be done to improve it. Part of the program is the meet the lender program, and we have cindy garcia here today. And I'm going to read a proclamation in honor of the meet the lender program. It's also an official proclamation and even has a gold seal on it. And it reads, be it known that whereas access to capital is the number one business need for entrepreneurs wanting to start or expand a business, but seeking commercial loans and discussing finances can be an intimidating experience and whereas the city's sixth annual free business loan fair, quote, meet the lender, aims to give area entrepreneurs the opportunity to learn about the loan process and to meet nearly 40 creditors from the financial arena in an informed and neutral environment. Whereas the city's small business development program this year also will offer two biz aid business start-up orientations for the event, sbda's goal is to ensure that the small business owners are aware of the resources available to them so that they can have adequate capital to get their business off the ground and/or enhance their existing businesses. Now therefore i, lee leffingwell, mayor of the city of austin, texas do hereby proclaim august 6, 2009 as meet the lender day in austin, texas. Congratulations, cindy, and say a few words, please. [00:54:52] [ Applause ]

meet the lender as the mayor said, is in its sixth year and again will occur on august the 6th, which is a thursday. 00 and 00 and will be held at palmer events center at 900 barton springs road. The entrance to the fair, process and parking are all free. Meet the lender was developed by the small business development program back in 2004 in response to a primary need of small business owners, obviously access to capital and/or financing. As the mayor stated, we'll have up to 40 lenders which will be in an exhibit hall, including conventional banks, non-conventional lenders such as community development corporations, factory and organizations, express loans, all of these have been invite and will be in attendance. In addition, as an added plus we will have two business orientation classes that will last an hour long each. The first one begins at 3:30. The second one at 5:15. I'd like to share that the small business development program is part of the economic development department and has numerous and varied services available for start-up businesses as well as existing business owners. So we'd like to be able to promote what we offer. We'll have a booth there as well. And I have some cards with me if anybody would like to take one, you simply register on our website. Our number if you need additional information is 512-974-7800 and you can register directly on our website at [www.cityofaustin.org/sbdp](http://www.cityofaustin.org/sbdp). Thank you so much for this opportunity. And we hope that all the business owners and people that are considering opening a business from the entire central texas area choose to join us. [00:57:20] [ Applause ]

Mayor Leffingwell: Are you going to stay there dolores? Okay. It's my great pleasure tonight to read a proclamation in honor of the mayor's committee for disabilities and the american disabilities act. I was privileged last year, ron, to come to your event and your awards ceremony and participate in that. I tell you, it's really something that I personally value and am very proud that the city participates in trying to help all parts of our community and improve everyone's quality of life. I know you have a couple of awards to read out and then -- commissioner winters, okay. I'll let you guys work that out. The proclamation reads as be it known that whereas the month of july is especially meaningful for all citizens with disabilities because it marks the anniversary of the of the -- of the enactment of the americans with

disabilities act in 1990 and whereas we recognize that citizens with disabilities have a right to a full participation in the social, cultural and economic activities of our city and that these individuals have a great deal to offer in return. And whereas the city of austin is committed to full implementation of the americans with disabilities act, thus offering more employment opportunities and enhanced quality of life for our entire community. Now therefore i, lee leffingwell, mayor of the city of austin, texas, am pleased to join the mayor's committee for people with disabilities in honoring local businesses for their commitment to the spirit of ada and do here by proclaim july 2009 as the 19th anniversary of a.d.a. In austin access awards celebration in austin, texas. Congratulations and I'll turn it over to you for the rest of your ceremony.

Thank you. [ Applause ]

first of all, mayor leffingwell, thank you for this proclamation on behalf of the mayor's committee for people with disabilities and for your continued dedication and support of austinites with disabilities. I would also like to send out a big thank you to commissioner norman kieke for his help in coordinating this year's accessible assessments. They were conducting in record time. Thank you so much for your hard work. In commemoration of the 19th , the city wishes to recognize these businesses for their welcoming, inclusive at studies towards customers with disabilities and for their substantial compliance with texas accessibility laws. We recognize these businesses for their leadership and commitment to up holding the spirit of the , which we often regard as our nation's second independence day. At this time I would like to announce our winners. When I call your name, please come down to receive your certificate and get your picture taken with mayor leffingwell. Also, I would invite you to say a few words if you would like to. Our first winner is starbucks on 38th street. [ Applause ]

I just want to thank everybody because it's always starbucks' way to want to always provide great customer service and I think receiving this award from you guys is something that were we're very, very proud of. Thanks a lot. [ Applause ]

and last but not least, text texa delphia on 38th street. [ Applause ]

thank you very much. On behalf of texadelphia that number one we're very grateful to be up for this award and for receiving it. Being a business member in community for 28 years, we want to reiterate that we are open to anyone and everyone that wants to come support the business, and we appreciate the support that the city has given us over the years. Thank you very much. [ Applause ] in addition to that, the university center medical center at brackenridge is well on its way to becoming a teaching hospital. They are evolving into residencies and -- and medical training and we hope very soon, very soon, into a full-blown medical school. Somewhere in or near the campus of brackenridge. So we have a press conference celebrating all of this stuff and a lot of people and I think every former mayor of austin was here to help celebrate this occasion. charles barnett, who is the head of the seton network of hospitals. Jesus garza operations director at seton now. Used to be at brackenridge, moved on up to seton network. So we had a good time this morning before -- that's been a long time ago. And I actually read that -- that this proclamation a 30, so i practiced and I'm going to read it again.

Okay.

Mayor Leffingwell: It be it known that whereas the university medical center at brackenridge is celebrating 125 years of medical innovation in central texas, first ambulance, first open heart surgery, first 24-hour emergency center, the clinical education center and in the near future a level I trauma center and, whereas, umc brackenridge is strengthening its presence in academic medicine and undertaking exciting new research programs; and whereas umc brackenridge is delivering health care that works, health care that is safe and health care that is available to everyone and, whereas, the seton family of hospitals is collecting and sharing memories of its storied past and bright future from all citizens willing to record them at umcb, 125.com. Now therefore I lee leffingwell, mayor of the city of austin, texas, do hereby proclaim the year 2009 as university medical center brackenridge 125th anniversary in austin, texas and congratulations to them and I'm here -- here to accept the certificate is asston cumberbach, I think one of the brain surgeries -- I'm kidding about that. I do want to say on this idea of sharing memories of the storied past. I anticipated this that process, at noontime I told a story on myself about what a klutz I was and wound up in the hospital. You will have to wait on that because I'm sure not going to tell it here today. Ash ton would you like to say a couple of words?

Thank you, mayor. I will say thank you, councilmember, mayor, on behalf of university medical center at brackenridge, for this proclamation. Certainly it's an exciting time for us. 125 Years. No I haven't been around with brackenridge that whole time. But as you mentioned we have quite a few firsts that have come through brackenridge, whether it's the trauma center, the first 24 hour trauma center in central service, first open heart surgery and clinical education center. All firsts. We are pretty excited about this. Again on behalf of all of the associates, the clinical or non-clinical at brackenridge, we appreciate this proclamation. Brackenridge has had a legacy of providing health care that is safe, works, leaves no one behind regardless of an individual's ability to pay. We will continue that even as we evolve into a world class teaching and research facility. We anticipate as you alluded to sometime before the end of 2009 being awarded the certificate of being a level I trauma center and the first in the 11 county region. A lot of firsts, a lot of exciting news, a lot of great things to celebrate with citizens of the austin region and we do hope that you all will take advantage of going to the website. Umcb 125.com. To record your story about brackenridge hospital. Again thank you very much.

[ Applause ]

Mayor Leffingwell: Now I will intriewns councilmember laura morrison to make the next presentation. Thank you.

Morrison: I was going to be joined by chris our new councilmember chris riley, also, I don't know if we have ever done this before, we decided to plan a little bit of a surprise proclamation this time. Anique bodet thinks that she's here to give an interview on the tour de france. That's not really what this is all about. I think her boss told her a little fib to get her over here. Would you come up and join us please. [ Applause ]

I think a lot of us know that anique has been a champion of the bike plan and sidewalk plans, just a

great advocate for the citizens of the city of austin. A little while ago I learned she's actually a champion in the whole great state of texas, actually the fastest woman on a bike in this state of texas. She -- in the texas state time trial championship last year she won the women's category 3 race, which is one level just below the professional women's category. But in fact her time was faster by the -- than the professional women's by 31 second, which is totally amazing. [ Applause ] cheering cheering.

And now she's training to be in the upcoming races in august or september. This time with the professional women, she's already broken three course records for the professional women's and women's categories standing since 2005. She's finished the 40 k 8 miles and a whopping 59 minutes and 46 seconds. So I just think that it's -- we think that it's so incredible to have this fabulous champion in our midst and we wanted to recognize her and send her off to the race with the best wishes of the city of austin. So -- [ applause ] so I have something formal to read. You want to read it, chris? Chris is here and -- and certainly --

sure.

Supportive of this.

Sure it would be an honor. It truly is a privilege for me to be able to read this off. A certificate of congratulations from the city of austin for having finished first in the 2008 texas bicycle racing association individual time trial state championship and currently holding the title of fastest woman in texas on a bicycle in her category. She is deserving of public acclaim and recognition. As the project manager for the city's bicycle and pedestrian program, she leads by example. She is a regular bicycling commuter, a steward of bicycling safety and a model for the city's goal of being the fittest city in america, by 2010. This certificate is issued with our congratulations of her significant achievements as a cyclist. The city council supports anique's continued development as a biking athlete and offers encouragement for another victory in the upcoming 2009 texas bicycle racing association's individual time trial state championship presented the 23rd day of july in the year 2009. [ Applause ]

thank you.

Congratulations.

Wow.

Do you have any words for --

I --

thank you, everybody. This is really, really amazing. I thought that I was in trouble. I thought something in the plan went wrong or the ordinance was wrong. And all of the bicyclists were here to support that it was okay. It can stay the way it is. This is really great to work for an organization that -- that takes these special things into account and, you know, supports each other in those ways through the proclamations

and everything else. But I -- I couldn't work in a better place and I -- i love everyone I work with. And all the bicyclists out there working hard, working late to get all of those facilities out for everybody to be safe and enjoy their bike and enjoy walking and everything else. So thanks everybody. This is great. I'm going to bottle this up and take it with me to race DAY ON THE 8th, THANKS. [ Applause ]

Shade: He can't see me. Okay. Ethan it's momma, I wanted to say hi. I miss you, I may not be home before you're in bed, but I'll see you soon, love you.

Mayor Leffingwell: First I want to announce that we said before the break that we were going to allow time for questions after the break. Regarding the briefing on the downtown plan. The affordability strategy. We are not going to take questions right now, councilmembers are going to submit questions in writing. And/or we may schedule at a subsequent meeting a time for questions in that proves insufficient. Before we get into our zoning we're going to go back to our 10:00 agenda. And we have several items on that, that we want to try to finish off. If there's no objection, i 46, which was pulled by councilmember morrison. I don't know if you have a specific question that you want to ask or have her -- this is -- this is due for a briefing anyway, correct?

Yes, sir.

Okay. You have the floor.

Good evening, my name is margaret shaw. Sorry. My name is margaret shaw, I'm the director of neighborhood housing and community development. Good evening, mayor and councilmembers, tonight we're going to run through with you the proposed 46, the adoption of a consolidated plan as well as the neighborhood housing budget for fiscal year 2009 and '10. The purpose of the presentation tonight is to -- to seek approval of a five year strategic plan that is required by h.u.d. Called the consolidated plan, in order for us to get our housing grants. Including in that consolidated plan is a one-year funding budget, the action plan, will then -- we will then provide an overview of the community input process and budgetary process that we went through to get here today. We will also outline for you the housing department's challenges and unmet needs and provide an update on our accomplishments for this last year in reaching a best managed status. The approval of the plan, the consolidated plan is a planning document, as i said, that the u.s. Department of housing and urban development requires every city that receives grant funds directly to include. There's some major components to that consolidated plan that we do every five years. There's a housing market study which we released and had a briefing here for y'all in march of 2009. It also sets the funding priorities for these out years, for the five years. We also include analysis of impediments to fair housing, which is also on our website and I'm -- I'm unhappy to report that austin continues to see extraordinarily high rates of discrimination against people with disabilities and minorities both in rental and home ownership housing, mortgage discrimination. Also requires public participation to reach that five year plan. Included in the plan then is one year of how we're going to spend our money to reach the goals and -- goals and strategies of this strategic plan. As I said before, all of these documents are available at our website. Which is listed here on the slide. We go through an extensive community input process. I'm pleased that this year we reached over 700 different folks came in to participate. Many different angles we had seven public

hearings from a variety of different sources. Obviously this body, the austin city council hosted to the community development commission hosted two, but we also do hearings before the community action network as well as the h.i.v. Planning board in order to reach as many different constituencies as we can. We held nine stakeholder meetings on focused topics to get the stakeholder input to really shape our proposals. We also did a survey that of the available in both english and spanish, it was available at neighborhood center, libraries a lot of different places around the city as well as on line and had almost 400 people returning surveys. Also a 30 day comment period. 37 People submitted comments on that. I'm happy to report that the community development commission last week recommended approval of the plan with some modifications that we'll go through. We also wanted to summarize after those hundreds of folks came to us, there were themes that we heard throughout the last nine months of this process. First and foremost was very vividly to increase the -- the assistance that we give for rental housing for the poorest members of the community, earning less than \$20,000 a year. Find money to support the supportive housing and services that are useful for homeless and vulnerable populations, that includes anything from case management to financial literacy and moving folks from homelessness into more self sufficiency, to expand our homeowner rehabilitation and repair, especially for the elderly. We know through data and anecdotal evidence that we have tremendous need for improving housing stock here in austin. They also encouraged us to find money to continue to -- the annual contribution to housing trust fund and then to make sure that we spent that in creating rental housing communities. Also encouraged us to take funds from home ownership to support rental housing development. Some concerns raised perhaps some of the proposals would weaken the committee's commitment to accessibility, also increase transparency and how my department works. Quickly the response to the stakeholders, we actually have a majority of the funding for rental housing, serves people below 50% of median income. So it's at that 25,000 for a single person. 6 Million in this year's budget is dedicated to the rental assistance that's a little bit of an increase, expecting to serve more people because of it. We completely agree that supportive housing and services are critical as we move our most vulnerable populations through that that housing continuum. Pleased to have the stimulus funds, homeless prevention funds that will help us serve even more folks, very lowest income folks and place them with case workers as well as locators for apartments to make their placements so much easier. We completely agree home repair is needed, because of that, we have drawn down as we did this body \$2 million in general obligation bonds to assist with that. We are in the process of finalizing the program designs on that, we will release the program shortly and be back to you to update you on that. We are maintaining emergency home repairs that offers safety and health repair, roof, plumb being, electrical works for folks. Home rehabilitation loans continuing more substantially repair, also a market increase in production there, as well as architectural barrier removal that provides grab bars and ramps for people experiencing disabilities. We also need to reassess our current relationship with excuse me our current rehabilitation programs because we are seeing while thousands and thousands of our residents need this assistance, we have actually -- I'm quite proud of my team who proved our production from about 7 houses a year, we will hit 25 this year, but again serving 25 people with about \$3 million doesn't even tap the great need that we have. We want to look a little deeper into that. Housing trust funds to reminds folks, this body has 8 million since 2000 for this. It reflects the real innovation and commitment of this city council throughout the year since 2000 to affordable housing. To remind folks at home, 40% of the property taxes are dedicated from city owned properties that have been moved to redevelopment. So

green next door, block 21 behind us, robertson hill an apartment complex in east austin as well as the domain, all of the property, 40% of the property proceeds, tax proceeds from those projects actually come into the housing trust fund and support our efforts. It's about \$200,000 now, rapidly rising to over a million. 60% Goes to rental housing, 40 percent for home ownership. Accessibility continues to be a very important aspect for our department. Again we continue to have the smart housing program that asks developers who use it to do a higher level accessibility. We have this year proposed to not continue to fund the voluntary compliance agreement. Through that program we have actually verified that almost 2000 multi-family apartments, the majority of them, not being affordable housing, it's a majority of them being market rate apartments, as being accessible, this is a commitment that we made with and the adapt organization in 1995. certified that we fulfilled the commitment in 2002. We continued that commitment through the years and this year we proposed to not renew the contract. Our colleagues oversee inspections, since then we have adopted the 2003 international building code, which does provide a safe harbor for fair housing. As I mentioned the smart housing program requires an additional level of last but not least we are committed to transparency. A specific request is to have all of our applications for housing funding to be placed online. We are more than willing to do that. I do not have the resources TO DO THAT BY OCTOBER 1st. So we will be present being in sent to the cdc a plan for how we will do and when we will do this. Again it was on something the staff wants to move forward on and to mirror the texas department of housing and community affairs application process. A lot that's into that, submitting their applications electrically, we hope to move to that next year, too. Now to give you a quick recap of the hours, we have about \$28 million. I would also like to point out from a variety of different sources the blue area on the right, the 3 million that represents our federal grant programs. On your left side, however, are all the commitments that we see from the local government. From our general fund, the sustainability trans ferks the general obligation bonds and different trust funds. I do want to highlight as we did last year the federal government commits \$15 million to housing and community development. This body commits almost \$13 million. One of the few communities in the cup where we commit federal funds almost more -- next slide shows how we distribute that 28 million. I won't go through each one of them but give you a quick summary of 70% of the funding for next year's budget is going to go to housing, from homelessness to home buyer assistance, first time home buyer assistance to owners to developers who are going to create and retain these opportunities. 14% Of that is going to go to small business development, commercial revitalization which is largely our efforts in the east 11th and 12th street corridor, as well as stimulus money we received to create new job creation opportunities as well as small business assistance through people fund and life works. Four percent goes to debt service, administration is about 12%. Probably no surprise to any of us, the major challenge is the incredible need for affordable housing homes and apartments in austin. As we came before you in march, we did a comprehensive study looking out 20 years. With an outside consultant who showed by 2020 austin will need [indiscernible] in order to just barely meet the gap that we see today. Again the strain on the rent renters side was extraordinarily low income folks being priced out of this market. Also seeing almost equally a need for moderate income residents. Folks earning 35 to 75 for a household who can't move into home ownership opportunities. We are looking to create more home ownership opportunities priced between 100, 113 and 240,000. The market will play a large part in our ability to deliver this. Additionally housing policies and financing tools are needed we are thrilled to have the 2000 general obligation bonds, 55 million the citizens voted for us. However they are so

popular we expect to exhaust them before the 7 year cycle, typical of a go bond. Federal grant funds could decline in the future years deficit and health care reform. From my time 10 years in was [indiscernible] our preservation strategy which is a short way of saying tens of thousands of our apartments are actually not subsidized through any other public entity. So we have hundreds of thousands of units that are affordable, however, they are owned in the private market and we're going to need to figure out a way to reach out to those landlords and owners to see how we can preserve those as affordable. Also looking forward to working with our colleagues in the neighborhood planning department on the comprehensive plan that will help us figure out how to site these properties as we move forward. Last as I mentioned earlier, our home repair programs are not meeting the communities' needs at this time. We are excited to be able to expand the emergency home repair, but we definitely need to work with the shareholders on how we will be able to do more substantial repairs in the future. Another policy challenge is on the small business side. Vibrant small businesses with less than 100 employees are really the backbone of our local economy. One of the major creators of jobs. We are currently as you will see less funding that are going into economic developments because we're taking a pause to be able to look at and work with stakeholders on how our current programs are being used and how we can actually improve our services to this community. As well as collaborate with public organizations and private non-profits who supply these services. One to file for the back of your mind, although certainly on the front of my department and myself is that our debt service payments as many of you all the city took out section a few years ago to finance the millennium youth center, arch, east 11th and 12 street. The debt service on these loans will be coming due in 2015. At this point we estimate it will take about 30 to 35% of our current cdbg so we need to be able to transition our programs or some payments for that debt service if that comes on the horizon. Also, we have gone through enormous organizational change in my first year as director here. We went through a reorganization last summer to improve our production, our customer service as well as to tap a broader expertise in real estate. So we have been using consultants and outside council in order to move some of our deals forward. And we want to protect the public's investment as well as ensuring long-term benefits. So as we moved into the fy 00 budget planning, we had guidelines that we approached the whole process with my management team. First and foremost no adverse impact on as much as delivery. Obviously in these economic times, unfortunately for those of us in poverty programs these are boom times for us. We had to sit back and think about the critical needs that we need to be serving next year. Next we want to focus on those most important issues, last but not least not to eliminate any positions that are filled. So the highlights with that I'm proud to say we met those core principles. We continue to maintain core services such as creating and retaining affordable housing and those public services such as child care, assistance to the elderly, assistance to youth, drawing 3 million in general obligation housing bonds. Again accelerating the use of those programs and will shorten that seven year cycle. Budget office has moved us into the sustainability fund so out of the general fund which we believe is an appropriate place for the neighborhood housing group creating jobs and housing is going to support the utilities that support the sustainability fund andments buffer us to a certain extent as the glund general fund fluctuates in the future. Stimulus funds, 2 million of 2 for neighborhood stabilization purchasing foreclosed homes to repair and then sell to eligible buyers. You will be hearing about the other 3 million from david lurie for the health programs in his budget. The savings added up to almost 700,000 this year. We did that as you heard yesterday like many of my colleagues eliminating vacant



positions. We eliminated five vacant positions in what we call support services, so purchasing, accounting and contract. We shifted the funding for three of our go bond programs staff to the bond proceeds, taking up -- that moved us out of the general fund, also restructured programs as I mentioned before, gave up half of the cpnr funding for businesses in east austin, \$75,000, in order for us to figure out how to use that program better. Then we removed earmarks in the housing trust funds such as the home buyer counseling to free up more moneys to actually do real estate deals. Our major accomplishments, which I'm extraordinarily proud of from the industry perspective we hosted a national award winning training program for our non-profits here to improve five day intensive course that was 8 to 12 hours a day if count the homework, I'm not sure how much they enjoyed us sponsoring them for that activity. They got a terrific training for free. We also were as you will RECALL, McARTHUR Application, although we did not receive it, we were only one of two places in the southwest, the state of new mexico was the only one that applied for the mac arthur foundation funding for affordable housing, we made the top 20. We have certainly made their radar and they have been in constant contact with me since. We were active this year with the intergovernmental department on state legislative issues, I was elected to a state-wide board for housing finance corporation. Community highlights, obviously include our comprehensive plan, the first time we looked at a gap analysis in housing over time. Over two decades. We are working with our county counterparts to be able to -- for them to be able to expand that to the county itself. We have also been talking to some regional entities to see if we can get a five county look at this issue, too. Also as many of you know, many of your staff attends, do regular affordable housing forums, they went from monthly to quarterly. We have briefed joint commissions with our partners to help them understand some of the many issues. That we face, also 45 days to submit applicants for the -- applications for the stimulus funds doing an online survey, public hearings, an evaluation committee for that project. Departmental highlights, obviously lots of interdepartmental collaboration on the last project that you saw. We do a lot with npdz on t.o.d.es downtown. Outreach for 2000, consolidated plan. Lots of maps, intensive training for the management team clung a job coach -- including a job coach as well as building skills and consistency across different silos, also streamlined operations with the reorganization to improve production of starting to eliminate management positions so that we can increase our production. The major accomplishments moving forward with our business practices, reaching out to the stakeholders. I have a luncheon with the housing works board, meeting regularly at c.a.n. and echo. Nobody profit and public sector group, I meet very regularly with the housing authority. We have already looked at and actually rejected four deals this year so we are anxiously awaiting to partner and do some deals with the housing authority. We just haven't found the one that's the right fit for all of us. We do a lot of interdepartmental work. I want to highlight the terrific staff from health, planning, austin energy, watershed, public works, oclm, [indiscernible], without which we couldn't move forward on a lot of our accomplishments that you see below. [Reading graphic] we will bring it back to you in a few months as well as the dietrich hamilton renovation. Our best managed efforts focus on enhancing customer service with those online tools that I mentioned and looking at client driven reorganization, so clients are seeing a seamless neighb housing. A lot of work with the stakeholders and folding the cdc into the efforts. Investing in staff as I said for retreats and monthly trains. Everything from the library to greg guernsey doing a zoning 101 to pe and benefits that come before my staff so they can see the broad issues that the city faces. We are increasing our production through program redesign. The next ones that they will be looking at are both owner and rental housing

as well as economic development. Also putting forward our implementation of the preservation plan that came out last year and obviously looking at our ongoing commitments on financial partnerships and endeavors. With that, I close and open to any questions. That you all may have.

Mayor Leffingwell: Any questions from council? Councilmember morrison.

Thank you. Mic [inaudible - no mic]

I think your work has been a really traffic collaboration. I understand this year you all had worked, come up with some recommendations and you worked through many of them. I wonder if we might be able to go through and review the status of those at this point because I spoke with the folks, want to make sure that we have settled on the right solution for all of the issues they raised.

Absolutely. With your pleasure I will walk through the letter that you received on July 15th from chairman rentria. The first one was to make development for rental housing a high priority. Their recommendation at first as I mentioned earlier was to shift money from home ownership programs into rental housing. As well as a discussion about switching the split from 60/40 to 75 slash 25. What we have seen from the housing market study we have a -- I am very supportive of home ownership for folks in the low to moderate income because it's the fastest way that you build wealth. One of the things the market study pointed out to us. Because our rents are so high, our renters have enormous difficulty in saving for the down payment assistance to move in. Another reason why expanded that. After that the commission was comfortable saying to make it a priority. I also pointed out the general obligation bond stakeholder group supported a 60-40 split. We will be coming back to the stakeholder with and community development commission, we are using the go bonds quickly. They are going much faster on the rental side than they are on the home ownership side. One thing that our stakeholders and the choda round table proposed shifting over to rental. We are very much open to that but we don't want to lose the end goal of reaching home ownership opportunities as well. The next one -- stop me if you have questions. The second item was to continue the homeowner rehab loan program with the 25 home goal. This is a discussion that first started because there is no new funding. Which is true. For our major rehabilitation programs. So where we go in and do anywhere from 40 to \$100,000 worth of repairs. We all recognize that this is a tremendous need in the community, but as I alluded to earlier, what I have seen in the last two to three years in evaluating the program, we can spend \$3 million to assist anywhere from 20 to 30 folks. So when you are looking at that level of [indiscernible] per home, when they have thousands and thousands of people in need, I thought it was appropriate to pause all it means is that we have the capacity and applications to serve the next 12 months. So we'll never have a break in the cycle of serving folks. But we want to take six months to evaluate the program that we have run, look at best practices around the state and the country to see if there's a better way that we could get to serving for instance hundreds of people.

You are saying you are going to take the time now to be rethinking it so there should not be a gap.

There should not be a gap. Vice chairman [indiscernible] was absolutely correct a few years ago where we ended up stopping the program and it was very difficult, took months, six to nine months to get it

back up and running. I think she was scared that was going to happen again. That was not our plan or intention at all. We should be able to look at this program in six months, come back with some proposals so that we could then start taking applications for revised programs this time next year.

Morrison: That's great. I think the bottom line is the need is not going to go away. Committed to serving the need in whatever form it takes.

For me that's also a question for this body as well. Ultimately it's a policy decision of investing \$100,000 in a -- one house if we have thousands in need something we might want to talk about. But we want to come up with options and go through the cdc to see if we can work with that. Third item maintain social services program at the level referenced in the social services. This is on the budget hall town meetings, I will translate this into lay english. One of the proposals we had made as an option for reducing the budget was to reduce public services for family elder care was one of them and senior services. The proposal there was just literally one of the hardest things that you do. As an -- as a public administrator is to be able to cut the budget and try to tie back to what are our core missions. Nobody supported those options. They are off the table. Community development commission met that wasn't public. Once they heard that we did support those services at their level, they wanted to make sure that they made that commitment to you all publicly. Not cut those programs. Next one new funding for the housing trust fund should include repayment of smart housing fee waivers. This came up, obviously we've been talking about the housing trust fund for a while. Very innovative suggestion was to use housing fee waivers. My supervisor, chief of staff and i, both agreed that we would be happy to work with the parties to review this. The proposal as I understand it is that city departments each year budget for a loss of fee waivers. \$1,500 I will get to use the lue again, 1500 lue's budgeted every year. If someone one of the development that we fund doesn't achieve affordability they have to repay those fees. Those fees rights now go back to that donor utility, typically it's the water department I believe. That we're giving the money back to. Their logic was if the water utility for instance had budgeted to "lose that money" why not take those funds and put it into the trust fund. The important point here that we wanted to make, i did some research, we've only sense 2000 only a handful of developments added up to about \$500,000. I wanted y'all to have kind of a range then of order of magnitude of what funds are involved today.

Morrison: You are saying you are working to make that happen?

It was a suggestion made snipes and I are going to talk to finance and utility organizations about that.

Morrison: I do think it makes ultimate sense. Effectively when they set aside that money as a loss, we're making commitments as a city but yet we want to spend the money to promote affordable housing so if that doesn't happen for it to come back and spend it in a different way for affordable housing, I think that really closes the loop [indiscernible]

yes, ma'am. That would come back to y'all as part of your august briefings as well as in sent, too. So next one number 5 is make the process from application submission through project completion more transparent. Our applicants are going to face a little extra work, too, not just our department. Number 6

was about emphasizing families and this city's home buyer program. This is obviously one of the recommendations that the families and children's task force. Of course we support that. I do want to note that 25% of our homes were sold to people with children and as you may recall from the housing market study only 19% of overall demographics are children, households with children. So in some sense we feel that we're above the city-wide average, but we always know that we can do better with trying to market and research and look forward to helping for that outreach from some of the cdc members.

Do you know if we have numbers that would tell us in terms of the income levels that we're targeting, what percent of those family units have children? I think it might be higher than the -- the 19%.

Actually, I think not necessarily. I can definitely pull that. What you are asking for is by income break down of family households that we sold to?

Right. Yes. [Multiple voices]

helpful if we try to actually target that. Make sure that we are targeting the actual demographics.

Absolutely. We actually worked with commissioner McCarver and I were talking a how to move forward. How do they reach out to families and how to do a better job with that. I know for instance an has habitat has four and five bedroom homes. There's dynamics we are working with some of the commissioners on.

Morrison: Great. [Indiscernible]

the seventh item is engaging stakeholders and formulating an aggressive multi preservation family. I look forward to doing that. It's an incredible challenge. I really want to call out now my colleague professor liz [indiscernible] over at 's planning department has been a tremendous resource for free for us throughout this process. We really appreciate her and the university of texas crp program on that effort.

Morrison: Excuse me, do you know what -- what time period you might be able to start up that effort.

Interestingly enough we had a number of different elements we wanted to do from education to financing. With the credit markets and standards that they are right now, that has been a lot more difficult. Where we were going to start with that database and the financing efforts, what i was going to propose to the cdc in advance is that we maybe move to education. And look at ways that we can -- we put a little extra money into the tenants rights assistance program this year, which is our contract with the austin tenants council, so perhaps -- so perhaps this is an effort to reach out on discrimination as well as rental issues until we get a little better perspective on the credit market. I would say that's a fall effort and then we would be looking at financing efforts in the spring. Last but not least build a non-profit -- this is really an important effort that i was pleased to have the board spoke to. Which is obviously we do a lot of items for our non-profit. I want to make sure that you all understand every year we give

grants, operating grants they can use simply for admin. It's based on their assets and some of their cash flow. But we have folks that are getting 15,000, \$25,000 from our efforts just to pay for their support networks. As I mentioned we had the national development council in town for five days for free to teach them how to do rental housing and other programs. Cdc and I both agreed we want to set goals. As you recall it was a recommendation of the housing market study. We felt that we could not set goals. Reasonable goals. Through this plan at this time. That we needed more engagement from stakeholders and actually a little bit better on the comprehensive plan. So we are going to engage with the cdc to set production goals for the community for affordable housing. What that means to me is for instance when I say we need 16,500 units that rent below 425, they will break that into public housing, section 8, all of our partners. County, non-profit, tax credit world. Try to assign some reasonable goals so we know where we want to invest our efforts, all part of our long term effort on a strategic plan.

Morrison: Thank you, i want to mention also that I'm really looking forward to working on the comprehensive plan and integrating housing.

Absolutely.

In a smart way. I think that it's terrific also that you have -- you and your colleagues at the county are working together because clearly housing knows know boundaries between city limits.

Absolutely.

Morrison: Thank you.

Thank you for your interest. Councilmember shade.

Shade: I wanted to get a little more clarity on what it will take to get an application on line. Make them more available electronically. When I think about the complexity. [Indiscernible] what -- what's the -- I know it isn't perfect. But what would it take to just have the pdf loaded on to --

I'm exploring that, too. I'm going to wing it here. The applications themselves are about a four to five inch binder of materials. In fact we have an open records request for all of the applications right now. So one thing that we're waiting for is law is reviewing them so if there's anything that needs to be redacted we have to go through law to find out what information would be considered proprietary or private. Go through that. Also following tdhca's model, obviously social security numbers and a private business financials, we would have to -- to just note those are not included. And then you are right, there is a -- tdhca makes it so easy because frankly they tab it. So instead of just scanning 600 pages that you would have to print 600 pages, you can stab, down load and tab to financial applications, so I would actually like to do something more along that line. I have absolutely no technical idea how that happens. That's why I have fabulous people that work for me. Those are the kinds of questions that we're looking at. Frankly right now the team obviously through the budget process we have 20 vacant positions, we have gotten this resolved to be hiring some folks. That was why I said i couldn't do it by october first we would be happy to do it. Happy to give council an update on that. One of the things that tdhca also

does, get the applications on disc. Therefore it's enormously easy, transferring up to their website. Also have to be looking at our website and rearranging it a little bit. We do take up a little bit of the server, we want to make sure that we are being responsible on the server.

Shade: Thank you very much.

Thank you.

Mayor Leffingwell: We do have one speaker signed up in favor, stuart hirsch. Still here, stuart? I guess he left. He was here earlier. We will show him being in favor. No more speakers signed up. Entertain a motion to 46, moved by councilmember morrison. Seconded by mayor pro tem martinez. Any discussion? All in favor say aye.

Aye.

Mayor Leffingwell: That passes on a 7-0 unanimous vote. Thank you. I believe, council, if there's no objection, we can move to item no. 18.

Spelman: My question has been answered. Staff has explained it all to me. I move approval of 18.

Mayor Leffingwell: Motion to approve by councilmember spelman. Is there a second? Seconded by councilmember shade. Any discussion? All in favor say aye.

Aye.

That passes on a unanimous vote. And we will go to item 17. 17 Pulled we councilmember morrison. Do you have a question?

Morrison: I have actually a couple of -- of modifications that I would like to recommend. This item identifies sort of a general scope of work andments authorizes negotiation and execution of a contract with wrp, which is our contractor, the consultant that is going to help us. Just to get the -- the plan started. And actually to fill out the scope of work. The plan is exciting and important and there's already a lot of interest in the community and a real commitment among the staff and community to make sure that it's a -- it's a success. In the scope framework, as it's called that we are looking at approval for today, I had the opportunity to speak with staff. To make sure that i understood it. And there were four clarifications and actually modifications to the document that I wanted to propose after having spoken with staff. And I believe you all have a copy of them. And I believe that the clerk also has a copy. Do you? I will list them out. On page 3 I wanted to strike some words that caused concern among various folks that were looking at it. In the -- in the last paragraph, there is a sentence that says these plans, talking about the neighborhood plans and other plans that we have done in the past, represent an enormous amount of work, excuse me, an enormous amount of time spent by the austin community. Goes on from there. I want to put a period there and strike the rest of the words that say our valuable attempts at grappling with the issues. Those words raised concerns that may be -- the other plans

weren't going to have that much [indiscernible] or something. Anyway, so I -- as a result of some of the conversation that I wanted to make sure we struck those words. On page 4, my recommendation is in the sustainability section we clarify the first sentence and then -- then replace it with the sustainability and climate change are overarching issues to be addressed in the comprehensive plan. The way it was written before made it sound like council had taken the formal action saying that should be so. I don't believe it has, although I'm sure we all think that sustainability and climate change should be overarching issues in the comprehensive plan. On page 8 under the section 1.2.2, orientation briefing. That had just listed city council and planning commission as the first two. After discussion I wanted to change it to -- to reorder it so that the first we will address the planning commission because that briefing will come first. And then add under as a subbullet under planning commission that they would recommend the participation plan to the city council. Then we would have as a second bullet city council and the subbullet after that would be to adopt the participation plan, so that makes it clear that the participation plan will be seen by a/c, the planning commission and then formally adopted by the city council and then lastly on page 13, the third bullet, under overview, to remove the word other. At the beginning of the sentence. It was talking -- it said other implementation action and we had -- there wasn't any other place to talk about implementation actions before, so taking out the word other makes it clear that's what we are doing with implementation action. With that I wanted to make a motion that we make those four modifications to the scope and framework and adopt it with those four modifications.

Mayor Leffingwell: Motion by councilmember morrison to approve item no. 17 With modifications that have been furnished to the clerk and available to the councilmembers, is there a second? Seconded by councilmember spelman. Is there any discussion? Councilmember riley? [One moment please for change in captioners] what do we expect in terms of timetable for the appointment of a citizens advisory committee?

Mayor and members of city council, garner stole from planning and development review. We anticipate briefing you on AUGUST 6th. There is time allocated for a council briefing. And if the authorization to sign the startup contract is given tonight, we would anticipate having wallace, roberts and todd staff there also. We've been talking to them about our discussions with the community. Most of the summer, they've been real generous with their time. They've had major input in the scope that you've seen and they are anxious to come to town and get the process started and so are we. So we anticipate a briefing on august 6th and then the first time you could make appointments would be AUGUST 20th.

Riley: That's helpful. I wanted to add one note to that. I think -- I expect that there will be ongoing community efforts related to the comprehensive plan even outside that committee, and i know there's been talk of, for instance, some work on the development regulations on our transit corridors, which i think really will serve the interest of the comprehensive plan and be connected to it even though much of the work may be done independently of the consultants. I just wanted to be sure that -- that our consultants will be attentive to and mindful of those processes and that ultimately -- and work product emerging from any ongoing efforts could ultimately be integrated into the comprehensive plan at this point.

Actually the scope framework document anticipates that and encourages it. We have been hearing from

no one profits as well as we've and there are a number of association that are actively interested. I think a demonstration project and the scope specifically speaks about encouraging implementation, demonstration projects. If someone wanted to show how a specific implementation technique would look on the ground, to inform the public dialogue, that is going on about options that are available. I think that's encouraged by the scope and would be very helpful.

Riley: Okay. Thanks.

Mayor Leffingwell: Councilmember morrison.

Morrison: I want to thank councilmember riley for bringing that up because i know there's a lot of interest in that and I appreciate that. I think one of the things that reading through this scope framework helped me understand was we don't really have a well defined role and responsibility for the community advisory committee yet, that's part of developing the public participation plan. I think that might explain why we've been juggling different recommendations because we don't really know what it's supposed to be yet. But on the other hand with my conversations with -- with staff, it's clear that I think everyone understands that the public in various ways will be involved at almost every level. There's going to be some work obviously when the consultants and staff go off and do their magic with data and things like that, but beyond that there's going to be lots of opportunity with a community advisory committee as well as many others, I believe.

Planning commission has been discussing that issue quite extensively during the summer. The goal of the scope of framew is to engage the public, anybody that's interested, in generating the ideas and values and principles that go into the plan.

Mayor Leffingwell: Thank you. Councilmember cole.

Cole: I realize that the planning commission recommended some number between 14 and 25. Can you give us any guidance on how large the committee should be or what the best practices are or how we should set it up? Should it be by area of expertise or regions of the city or just any help you can give us, I think it would be most helpful because we've gotten a lot of feedback and i don't know where to land on the issue.

Our consultant suggested based on their experience that an ideal number is about 20 to 25. The planning commission had recommended 14 to 24. Larger advisory committees have difficulty just having extended dialogue on the subject and making a decision and it extends the process. Although obviously they are advantageous for representation. A committee that's too sometimes can slow the process down. Coal cole do you have any familiarity with subcommittees or has that been done in other cities?

That's frequent done. Frequently a steering committee is used to kind of guide the overall process, to promote the process. Be the eyes and ears in the community, listen for the process to make sure that it stays on track. And many communities use additional subject area committees later on in the process.



The charter, for instance, talks about 10 elements, transportation, housing, so forth. Many communities use specific technical committees used to work on those elements and that would come later. And those are usually self-appointed, meaning anybody that's specifically interested in that subject just tends to [inaudible]

Cole: Because like I'm familiar with the fact that public services is also specifically listed in the scope of the comprehensive plan and we don't talk about that much and I don't think that we've made any specific outreach efforts to that community, but they should definitely be included because it's important to our overall community. So I guess I'm just looking for any guidance that you can give us about best practices in other cities in terms of how they dealt with the different areas. Did they do more of a concentration on -- focus on a particular area or was it geographic, you know, based north, south, east, west, or did they incorporate the neighborhood plans?

The scope framework actually recommends all three. It recommends city-wide efforts going all the way out into the e.t.j. It recommends providing opportunities by geographic area and it also recommends outreach by ethnic groups. All those are very important.

Cole: Okay. And you are coming back on the 6th.

Yes, we are.

Cole: All righty.

Mayor Leffingwell: Motion on the table with a second. All in favor say aye. Any opposed? Passes on a 7-0 vote. And that brings us to item number 92, which I pulled. I will just start by asking good, this is a request for the bat fest I believe on AUGUST 22nd. Does this request meet the guidelines which were recently adopted and in progress by the street closure task force?

Sir, director of transportation. The application for bat fest came in before the ordinance passed and so it was already started under the previous ordinance which actually required a 90% positive signoff from the affected businesses. Instead of the current ordinance that requires a 20% no vote to bring to you. So it's actually a little -- was a little bit more summer some on them. They had to get out ahead. They actually received a 100% approval from the affected businesses and neighborhood groups.

Mayor Leffingwell: And the council's discretion on this approval is related to what?

This is a fee based event and so they are actually charging a fee to participate. And because of that it needs to come to council for approval.

Mayor Leffingwell: Thank you. Does anyone else have questions of staff? Mayor pro tem martinez.

Martinez: Thanks, mayor, I don't have any questions. I do want to make a couple of comments because we did go through a pretty lengthy discussion last year when this event came up. We made some

comments from the dais on the day that we went ahead and approved it and some of those comments related to, one, the highest priority i think was to try to find an alternative location other than a major downtown bridge like congress -- or like ann richards bridge. But the other things were that we asked them to contemplate a one-day event. We asked them to contemplate moving it from a nonholiday weekend and also moving it from a university of texas home football game. And all of those stipulations have been met including all of the stipulations it sounds like in the new street closure task force recommendations. While it's still on the bridge and it is going to cause one-day inconvenience, I will be supporting this item, but also again making the same request that they do everything they can to find an alternative location other than on ann richards bridge. Thanks, mayor.

And we will continue to pass that along to the supporters of this and continue to work with them. He did go out much his way to work with the affected businesses to make sure that they could meet their needs.

Mayor Leffingwell: And i would just say I appreciate the efforts that have been made, but this is the third year that I've been on the council that we've dealt with this and every one of those occasions it has been -- there's been a great deal of concern, intrepidation expressed about the desirability of closing down the capital street of texas for a fest that's not a compelling, overwhelming community celebration. So before I go on, I want to recognize that we do have one speaker signed up in favor. Fred smith. Welcome. Have you three minutes.

Mayor, city council, i appreciate you all taking your time tonight to discuss the bat fest again. As we have dealt with this event there isn't really an alternative place to hold the capacity of the people to come for this event to see the bats and the bats flying out from under our bridge. It's our only location. So our best attempt is to make a situation that works out for the businesses and the concerned people in this area, and I think with our 100% approval of the businesses in downtown that are affected by this shows that we've made that effort and we are hoping that congress bridge could be a permanent home for the bat festival. You know, we wouldn't continue to try to do it if we couldn't do it on the congress bridge. Last year I felt that -- from the discussions we had that the main concerns were dealing with the businesses that were affected in that area. I'm here to answer your questions.

Mayor Leffingwell: Councilmember shade.

Shade: How many businesses did you have to get to sign off on it to get your 100% score?

Well, the -- there's a question about whether or not, you know, I guess when you count them, it's literally just the ones in that area, but we've had more businesses sign off than are actually there. The only people that are actually directly affected, according to the ordinance, are sherry matthews, the radisson and the -- your living room, which is not any longer in business but they still signed off because back before they were planning to go out of business met with what they were concerned about, labor weekend and being two days. They were happy with it. But we also get about 20 other signoffs that are people like the downtown austin alliance expressed -- have a concern about the event and want to know what's going on. Bigger hotels like the embassy suites and the hilton and there's also neighborhood

associations like the bouldin creek. We have more than 20 people i feel actually sent in a signoff but it's about a percentage. So we're supposed to have -- i believe it's -- as it was before, 90% approval and we had 100%. Now the way the new ordinance reads we have to have -- it's like 80-20 split.

There were actually 22 affected businesses and entities identified, ranging from austin parks foundation, downtown austin alliance, your living room to sixth street austin, one congress plaza, bouldin creek, et cetera. It did cover the gap mull gamut of folks.

Shade: Last year you did move to first street? First street bridge?

Yes, to accommodate the concerns of city council, the business owners, we elected not to like fight the issue, just move the event. And we moved it to the first street bridge. The city helped us with -- make this possible and in the end I think everyone was happy with the results.

Shade: But you still don't want to do it at auditorium shores or on first street but rather congress avenue.

We would want to do it on congress avenue. I don't think that we could even get auditorium shores because there's only so many dates a year. We're also a lot closer to the long center and it might be conflicting with some of their events. There would be a lot of issues. I don't even think that would be an option for us.

Shade: There's a new bat bridge in round rock I've read about that you might think about.

They actually called me and said why don't you do it here and I looked at it and I was like this looks like a very dangerous spot to hold on festival.

Shade: I appreciate you addressing the questions. Thank you.

Mayor?

Mayor Leffingwell: Mayor pro tem, then councilmember cole. Hart mated I just have a couple of comments now that I've heard mr. smith speak. It's unfortunately what you are saying essentially you appreciate our support today, but next year if you can't get it on congress avenue, you are just not going to have it and that's unfortunate. Because I was willing to support you. If you were willing to work with us and the concerns we have. You won't even consider it having it in a parking lot away sent to the bridge, talking to the hyatt or statesman or as councilmember shade said on auditorium shores. You're not even willing to sit down and discuss this. You've just said if we can't have it on congress avenue, we won't senior citizen. And that's unfortunate. And, you know, this council has demonstrated clearly year after year we want this to continue, we want this to be a good thing, and I think it has been. is a great organization and they should be supported. But your comments are very concerning and so therefore i won't be supporting this item tonight nor next year or the year after that unless you are willing to talk about an alternative location. It's not just about the 22 entities or the 30 businesses. It's about the entire

community that has a right to use that bridge that's affected by it, not just a handful of folks.

I definitely -- you know, appreciate your view and I -- if I felt like there was a place to make this happen, and if you believe you could help me make this happen at auditorium shores, I would certainly talk to you about that. I've been led to believe that that wasn't a possibility. Some of the other options like parking lots and things like that, I have to make a decision that, you know, i don't think the event would be profitable to operate any longer under those circumstances, and I hope you do support us and I didn't mean anything negative, I just don't think that I could without, like, ---and I would love to talk to you about other options. You know, I just haven't seen them presented to me yet and it would -- it was brought to me last year that these terms, if I got 100%, would be acceptable to everyone if i had people happy with it.

Mayor Leffingwell: Councilmember cole, then councilmember shade.

Cole: If I remember everything correctly I believe that last year we asked you to have this event on one day instead of two. Is that correct?

That is correct.

Cole: And I believe we asked you not to have it on labor day weekend. Is that correct?

That is correct.

Cole: And finally and most importantly, we asked you not to have it on the u.t. Football game weekend.

Right, and we're prior to football or even the start of u.t.'s school.

Cole: So for those reasons, and I share the concerns of my colleagues, but because you have done what we asked you to do, I will move approval.

For the same reason, mayor, I will move to second it.

Mayor Leffingwell: Motion by councilmember cole, seconded by councilmember spelman. And I believe you had a comment, councilmember shade.

Shade: I just had a question -- two questions actually. One was under the new ordinance for street closures, can you review again what happens if you -- if you do an event that closes -- whether it's a run or closes congress avenue, what are the rules? Then first street has to stay open? How does that --

yes. And this is off the top of my head, so please, yes, i believe we can only close one of the three bridges going south.

Shade: So this is compliant with the new as well.

Yes.

Shade: Then the other thing is could you tell me again how much revenue -- this is a question for french, but is due to the fact -- how much last year? Yes, french.

They had an arrangement where between the donations of the beer company and the percentage of the gate that they did about \$4,000 or \$5,000.

Shade: They generated \$4,000 or \$5,000 '. Last year there was a big plea about the job creation and what a big part of your business portfolio this is. Can you give me assistance of that. What kind of revenue generating event is this to for your business?

It's obviously important for me to do this event. It's not my most profitable. It's probably one I'm most proud of. I think it's a great event for the city of austin. I think it, you know, celebrates our music and arts and our bat colony and I think these are all important things. It has been a struggle financially to make this successful. It's very expensive to close streets like the congress bridge with all the police that have to be hired and we have a lot of entertainment out there and, you know, the expense get -- go on and on where we have a very small profit margin at the end.

Shade: How many vendors?

75 To 100.

Shade: Was \$4,000 made last year smaller or about the same?

It was smaller than usual. We incurred extra expenses last year with the move.

Shade: What do you expect to generate for the bat conservation this year?

I would hope it would be at least double that.

Shade: Has it ever been \$8,000 or more in any of the years you've been doing it?

Not quite 8,000. I think we did like 6,000 the year before on congress bridge.

Shade: Why is this year going to double what you did last year -- be higher than any --

I expect the event to grow. I mean it's been growing every year and last year was our first kind of setback. We had seen growth each year before that.

Shade: But it's only going to be one day this year, that's a good point.

It's one day, but we cut costs by cutting a day.

Shade: That cost savings ends up resulting in more ?

No, I mean it just means we don't have to do as many people admission paid.

Shade: How much does the charity get and why are you expecting they are going to get double?

Well, I just hope that the profit margin is higher. I mean I expect more people to attend over a single day than would have over two days. With less expenses, a single day being more profit.

Shade: How does that connect to the amount of money that goes to the charity?

Oh, they are on a direct percentage of it basically after we cross the break even point, they get more dollars towards the charity.

Shade: So this year you think they are going to get \$8,000?

I would hope so. I mean --

Shade: But that's double what they got last year and more than they've gotten in the past on a two-day event.

Yes. And a big part of this for is their message, getting out in front of people.

Shade: I remember it was about the children last career. I remember that.

They really do, they get a lot of people signed up.

Shade: I remember the presentation. But I know the money is important when people ask us about the benefit filth of closing down a major road, i like to be able to tell them. I'm going to go ahead and support it this year, but I do hope that you take councilmember -- I mean mayor pro tem martinez's suggestion to look at other alternatives. It's really hard for it to be congress avenue, and I realize that's where the bats are, but it's very difficult.

Mayor Leffingwell: I don't think I heard an answer to the question in there last made \$4,000 and what did your company make?

We probably, you know, made somewhere around 8,000 or so.

Mayor Leffingwell: About 50/50.

They get a third.

Mayor Leffingwell: They get a third and you get two-thirds; is that the deal?

It's more of a they get a dollar off of every ticket regardless after we hit the break even point. They also get all the merchandise sales off of t-shirts. We do a very low dollar ticket structure on it.

Mayor Leffingwell: Okay. All right. That's fine.

To kind of explain how that works.

Mayor Leffingwell: Yeah. Let me say, you know, this is my third year to vote on this. I voted against it two prior years and I will vote against it again tonight. And the conditions -- you have made some improvement in it. Councilmember cole ticked off the conditions you thought were imposed last year that you had met, but there's one more condition, in my recollection of it, and that was that you move it off the ann richards bridge. And I do think, as has been mentioned several times tonight, that we have to think of the public at large. That it has to be a very compelling community purpose to shut down a major arterial roadway. The capitol street of texas, so to speak. So I will vote against this motion tonight and I would hope that we don't get the same request again next year so I'll have the opportunity to vote against it again next year. It's nothing personal. It's a matter of public policy. Councilmember spelman.

Spelman: I would like to address a question to councilmember cole. Sheryl, what was the instrument that we used last year to convey these instructions to mr. smith? Downpour?

Cole: Well, our aids i think was actually councilmember martinez's aide and my aid negotiated an agreement. Do you have that agreement with you?

As far as the terms -- we all sat down with the business owners in a room and expressed the concerns and at that time from what I understood from the meeting with the aides that if I did this, you know, that this would meet everybody's concerns and we could go back to doing it on the congress bridge. That's something I very specifically asked in the meeting with the aides and the business owners was just going to make everybody happy.

Cole: Right. I guess I can say that I know that last year I did not give a specific instruction to not bring this event to congress avenue bridge. And I also recalled that mayor wynn made a very specific in his instruction to not have it on a u.t. game day. And those are about the two main requirements -- and the - and I don't remember who it was, I think it might have been councilmember martinez that made the requirement of one day, not two.

Spelman: I was asking because I was wondering if i could make a friendly amendment. You've asked everything we've asked you to do but would have been unreasonable for you to expect you need to do move it off the bridge given the instructions you got. But I think it's a sense of all of us that it is plain ridiculous, not a personal comment of you, it's just plain ridiculous situation that we're holding a festival on a public thoroughfare because it's too difficult to find space in a public park. I think we need to find a way of putting it in a public space, in a public park or some other public area that's not a public

thoroughfare and one of the major highways, as the mayor is saying. So I will say yes now because you did everything you said you were going to do, but if this comes up against on the congress bridge I'll vote.

Cole: I will take that as friendly amendment and share that commitment.

I'd like to, now he, express too on that concern is I've found as a promoter in this town that it's not real easy to get venues. The town has grown exponentially, but the number of parks, if anything, usable for venues have decreased. And it's a problem that I see -- it's irrelevant to this topic, but I think that somewhere down the line some new venues should be created for these type of things.

Spelman: I probably over stated the case when I said not a public thoroughfare because I think you have done wonderful stuff on sixth street, we have wonderful things on east cesar chavez, but we have so few ways of getting across the river, it's a bottleneck for north-south traffic, I think congress avenue bridge or any other bridges that cross the colorado are in a different position. There's no objection on councilmember cole's part, I would issue the caveat it should not be on any of our bridges instead.

Cole: I'll take that as a friendly amendment.

Mayor Leffingwell: Councilmember shade.

Shade: It will probably be resolved if that's met, but I would ask guess -- I won't add it as a friendly amendment, but I would ask that -- you know, this is an event that you are making money on, I realize that it has a benefit for worth to the community in terms of promoting bats, but we have other ways to do that and they are selling t-shirts there every night, not just because of your festival. And it's -- you know, it's always a little wishy washy how much they make and how that all works. I just really feel uncomfortable when we're putting all the citizens in this kind of inconvenience for an event that's basically your event to make money on and sort of as an almost afterthought. It's a tie-in with something that Austin is well known for and I just -- I'm really uncomfortable with that aspect so I want to say that on the record and make sure you come next time that you can answer those questions with a bit more specificity so we understand economics of this. The reason we're asked to grant a waiver is because this is a fee based event so there needs to be greater community benefit. I just don't feel like I'm seeing it. Again, I feel uncomfortable because of what was asked of you last year and how you've worked on that, but please understand where we're coming from on that.

If the event were turned entirely, would it be something you all would be more interested in having continued on the bridge? That would be my other question. I mean I would hate to see the event go away if they had an interest in running it themselves. I would rather see them running it than myself if that's the big concern.

Shade: I think we should negotiate another time.

Mayor Leffingwell: I'll just say before we vote that I'm still going to vote against it, but I want to make it



clear that I don't have anything against bats. I really like the bats and --

they fly.

Mayor Leffingwell: I support the bats. They eat a lot of bugs. You know, every -- when I have friends or relatives come into town, they always want to go see the bats and we come down here and watch the bats, but we don't ask to have the bridge shut down in order to do that. So with that said, all in favor of the motion as amended by the friendly amendment from councilmember spelman say aye. Opposed? No. So that passes on a 5-2 vote.

Thank you.

Mayor Leffingwell: Mayor pro tem and myself voting no.

Thank you, mayor.

Mayor Leffingwell: Yeah, thank you. That brings us down to one item remaining on the morning agenda and that item is related to items 136 and 137. I'd like to handle those at the same time and we'll now go to our zoning hearings.

Thank you, mayor and council. Greg guernsey, director of planning and development review department. I'd like to walk through our 00 items for zoning ordinance and restrictive covenants. This one item is for an item where the public hearing has been closed. Item number 118, case c14-2008-0069. Again, we can offer this as consent approval on second and third reading. The public hearing has been closed.

Mayor Leffingwell: Is there a motion to approve item 118? Moved by councilmember morrison, seconded by mayor pro tem. Any discussion? All in favor say aye. Aye. That is approved on a 7-0 vote.

Thank you, mayor. Mayor and council, I'll move 00 zoning and neighborhood plan amendment items. These the public hearings are open and possible action is available for this evening. The first item for consent is item 119, c 14-85-339 rca. This is for the property located between 400 and 900 block of east yager lane. The applicant is requesting a postponement of this item to your august 6th meeting. Item 120, case c14-2008-0193. This is in the 500 block of vfw road. The applicant is asking for postponement of this item to your august 6th agenda. Item 121, npa-2009-0002.01. This is the vertical mixed use plan amendment staff is asking for postponement of this item to your august 6th agenda. Item 122, case c 14-2009-0036, the east cesar chavez vertical mixed use opt in, opt out pro cyst. Staff is asking for p to your owg 6th agenda. Item number 123 and 124 are related items. Mayor, I believe we have one citizen that signed up for neutral so I'm going to offer both for consent. Item number 123, case 1 for the chestnut neighborhood planning area, vertical mixed use neighborhood plan. The planning commission recommendation was to change the future land use map from commercial to mixed use on selected tracts within this neighborhood planning area. 124, This is a chestnut neighborhood planning area vertical micked use building opt in, opt out. The planning commission recommendation was granted

vertical mixed use building or v district zoning. As noted in changes and corrections, the remainder of that portion of the planning commission recommendation was removed with changes and corrections. Item 125 will be a discussion item. Item number 126, case npa-2009-0025.01. There is a representative of one of the properties here tonight to request p. I understand there is opposition so that a discussion postponement item on 126. Item 127, case c 14-2009-0039 for the property located at 2305 blue bonnet lane. The planning commission recommendation was grant multi-family residence, medium density, conditional overlay. And this is ready for consent approval on all three readings. Item 128, case c 14-2009-0059 at 888 bannister lane. Staff is requesting postponement of this item. To your august 6th agenda. Item number 129, this is for property located at 1112 east yager lane. I think you have many people signed up for this item. Item 130, research boulevard. This is a discussion item. Five or six people signed up. Item 131, case c 14-2009-0053 for the property located at 7205 cameron road. The planning commission's recommendation was to grant neighborhood commercial conditional overlay with conditions. Commission recommended staff recommendation. The applicant has approved staff and asked to modify one of the conditions and with your indulgence let me read this. Item 131, the requirement that dedication occur at the time of zoning will be substituted an agreed offer to dead rate right-of-way in the future as directed by the city. This is only for first reading this evening on item 131. And then with that change staff would offer that still as consent item and you will have ability to review that document before second and third reading -- or with second and third reading. 2 arca. This is for the property at 4320 river gardens trail. The planning commission recommendation was to grant or basically to approve the amendment to the restrictive covenant. This is just for consent approval on the restrictive covenant amendment. Item number 133, case c 01, this is for the property located at 12309 bull luck hollow road and 6708 north fm 630. This is related to water treatment plant number 4 and as you heard earlier today we are bringing these back on your next meeting of AUGUST 6th. Staff recommends postponement of that item. Item 134,, for the property located at 3400 block of north ih-35 service road southbound, this is the east avenue p.u.d. This item has been withdrawn by the applicant. No action is required on 134 because the application has been withdrawn. That concludes the items for consent at this time. Mayor, if you would like to hear the one individual regarding 123 and 134 regarding the neighborhood planning area, I think we could still keep these items on your consent agenda.

Mayor Leffingwell: Clarification, 123 and 124 is being offered for consent on all three?

That's correct.

Mayor Leffingwell: Okay. I will read back the consent agenda for those items for which we've yet to hold a public hearing. And the first one is item number 119, consent postponement until AUGUST 6th. 120 Consent postponement till AUGUST 6th. 121 Consent postponement until AUGUST 6th. 122 Consent postponement to AUGUST 6th. 123 For -- approved by consent on all three readings. 124 Consent all three readings. 127 Consent on all three readings. 128 Is postponed until AUGUST 6th. Item 134 consent on one reading only with the additional condition proposed by the applicant.

131?

Mayor Leffingwell: Yes. 131. What did I say? 131. That's the one I'm reading. Additional conditions

suggested by staff and i assume when we come back that will be reduced to writing and available. 132 Is amendment of restrictive covenant for consent. And 133 postponed until AUGUST 6th. So that is the consent agenda. And before we take a motion, we'll -- we have one speaker signed up to speak on item number 123. Giselle.

Good morning, evening and councilmembers. My name is giselle bradford. I grew up on walnut avenue with part of the chestnut neighborhood plan. I went to school at campbell ridge. I'm abbreviating my remarks. My concern to that plan is that it does not fully reflect the interests of neighbors. I recognize that the plan was actually developed in 1999, but I question the progress for priority concerns and goals as well as the level of participation. Second, I am concerned that the plan provides limited means to address affordable housing needs. Including the ability of long-term residents to hold on to their homes as homeowners as opposed to renters. Third, the plan seems a boon for developers without measures to specifically address quality of neighborhood life concerns including sidewalks, amenities and conveniences to all neighbors, business development as well as affordable housing. These elements, of course, were all included in the 1999 plan, but it would be helpful to know what steps have been taken to address them. Let's see. I attending the city's planning commission meeting on JUNE 9th, BUT I MISSED ANY Discussion of the chestnut neighborhood plan. I did -- I did so as a means of gaining information and did not register any concerns after receiving the pre-meeting packet, which i have said, of course, was a little [inaudible]. Totaling 18 pages with three full or partial maps. [Buzzer sounding] one indicated the d.m.u. Overlay and tract in black, gray and white. I urge the council to postpone further zoning changes until the planning department can assure, first of all, that property owners specifically affected by the proposed changes have been involved. Secondly, that there's some sort of annual report, progress report that has been provided and reviewed with any adjustments to the 1999 plan. That the affordable housing positions be reduced from 60 to 80% for ownership and 40 to 60% for rentals. And actually I think that's consistent with what was recommended earlier for the outlying areas of the downtown plan. And 5, that there is dialogue with housing advocates and other east austin neighborhoods like black land and cesar chavez. For input on such issues and possible assistance for first-time home buyers, et cetera. [Buzzer sounding] as I close, I want to thank victoria craig of the city's planning department for the background information she provided. I am also especially mayor, to your staff, nancy williams, robert l. Binsky and councilwoman morrison's office and mayor and mayor pro tem martinez's office and heidi gerbract in councilman spelman's office. I also met with stephanie McDONALD IN YOUR OFFICE, Councilwoman cole, and regret I was not able to check in with more of you. As I mentioned in these various meetings, I expect to remain engaged in neighborhood planning, particularly for the chestnut neighborhood whatever action you take today. Thanks for the opportunity to record my concerns.

Mayor Leffingwell: Thank you. And council, I need to add to the list of proposed consent ite item number 134 has been withdrawn. Councilmember morrison.

Morrison: I wanted to ask staff in terms of status updates on the chestnut neighborhood plan, is there a way that -- I forget your last name. Bradford. Miss bradford might be able to get that? I know we have staff monitoring implementation of the plan.

We can get with miss bradford and we understand that each of the neighborhood planning areas that we've been working with have recommendations they would like to see implemented back in those plans. We have worked with the other departments, public works, transportation, water utility for improvements to be done to that area. So we can provide that list to bradford for her convenience to look at. At this time I'm not aware of my department going in and doing a comprehensive update to that plan. We've been a little diverted to try to finish the comprehensive plans before we probable come back and look at individual neighborhood plans that have already been adopted.

Morrison: Also, miss bradford, I wanted to suggest if you are interested in getting connected with other folks involved with neighborhood planning -- i don't know if you already are, in the chestnut neighborhood or east austin in general, if you would like to contact my office, we can certainly give you some contacts, or I'm sure guernsey's staff, the neighborhood advisors, could get knew touch. Like, for instance, the austin neighborhoods council east sector meets on a monthly basis and talks about all those things you are talking about. Thank you.

Mayor Leffingwell: Motion by the mayor pro tem to approve the consent agenda for those items that we have not yet held a public hearing. Is there a second? Seconded by councilmember cole. Any further discussion? All in favor say aye. Aye. Opposed? That passes on a vote of 7-0. I guess that brings up, guernsey --

we can go back to item 126, if you would like, mayor. This is the discussion p on the item related to the oak hill combined neighborhood planning area.

Mayor Leffingwell: Without objection, council will take up item 126 out of order.

Item number 126, I'll explain briefly what it is, npa-2009-0025.01. For the property located at 6102 and 6110 hill for rest drive. This is amendment to the future land use map designation of property from high densely single-family to single-family. And we've been approached by mickey bentley who represents one of the properties that is affected by this neighborhood plan amendment and he has asked for a delay of your action tonight of this particular item to your august 20th agenda. bentley is here this evening. You can speak to the merits of that request and I believe there are at least four, five people here I think from the neighborhood that could possibly respond. With that I'll pause.

Mayor Leffingwell: I'm showing six.

Very good, six. With that I'll pause and let bentley come forward and he can express the merits of his postponement request.

Mayor Leffingwell: So right now we're talking about the postponement request and we'll confine our remarks to remarks relating to the p, not to the merits of it. -- Postponement.

Mayor and members of the council, this is been coming up for several times now. I think the last time it passed was in december and then there's a motion the reconsider or something, but bottom line my

client is ill and he just had a major operation and we've come up with -- I'm also on the oak hill planning contact team and so is frank bottomer, the owner of this property. Last night at the oak hill planning team meeting we were doing matrix of what the staff has sent out to us to do for items that people want for the c.p.i. Your potential bond.

Mayor Leffingwell: ?

Yes. And number 2 on the list last night was pocket parks. And so I talked to -- I talked to frank and I talked to him this morning again, and we want to explore the possibility of that as a possibility as a pocket park. And so we request, if we can, first because he's ill, but secondly for us to explore the -- and talk to the parks department and some other people to see if we can't work on something that maybe is a pocket park. Thank you.

Mayor Leffingwell: Thank you.

Any questions, I'll answer them.

Mayor Leffingwell: Right. Those folks that are signed up in opposition to the case, is there someone who would like to speak against the request for postponement? And your name is?

Chris shuckinsider. President of the west creek neighborhood association.

Mayor Leffingwell: And you are g speak for everyone with regard --

yes, but there might be somebody else in opposition to the postponement. That's what I want to speak to. Thank you, mayor and councilmembers for this opportunity. bentley back in december of '08 -- september of '08 and to talk about this property, and at that time we had mentioned the idea of a pocket park to him and he flat out rejected the idea at that time, and it 00 last night that I got word about this, that he's all of a sudden come around to the idea of a pocket park. We like the idea of a pocket park. But the question in my mind is why would -- what difference does the flum category have to do, which is what the amendment is about, if he wants to sell it as a pocket park, what difference does it matter to him if it's low density or high density. Well, I inquired about that and the answer so that he is wants a postponement so that he can continue his fight to get the high density flum designation which would clear the path for him to get an up zoning and increase the value his land. And then turn around and sell it to the city as a pocket park. As a neighborhood, we don't want any part of those efforts to extend this and waste any more time on this or spend the taxpayers' money, which we in fact would be doing if we postponed this item further. Just so that he can continue his efforts to get the zoning that would make his land more valuable. Again, we are keen on the idea of a pocket park. There is another plot of land in our neighborhood that we have been in discussions with the oak hill trail association that we feel would be better suited for a pocket park, but that's for, you know, a discussion down the road. At this time we want to address the item at hand which is on the agenda, it's the flum case and we are opposed to any further postponement. This item was already postponed, it was on the council's agenda in april. We were prepared to make our case then. It was postponed until this meeting. I will say that we have spent

about 15% of our meager cash reserves, the board's reserves hiring a professional consultant because we're just homeowners trying to represent our interests. We don't understand the zoning regulations and such. So we've hired a consultant to help us, and quite frankly, we can't afford drag this out any longer. We need to get this flum case settled. Thank you.

Mayor Leffingwell: Thank you. So council, we have to consider the request for a postponement first. Is there any discussion or perhaps a motion on the request for postponement? Councilmember morrison.

Morrison: Yes, mayor, i would like to hear that we go ahead and their this case tonight because we've already will one postponement and while I certainly appreciate the problems that arise when health issues and all, but when we have, you know, six folks spending four hours waiting for their hearing, again, after -- after the history of this case starting way back in the fall, I just feel like with all due respect to the citizens we really need to move on. So my motion is that we hear the case tonight.

Mayor Leffingwell: Motion by councilmember morrison to deny the request for postponement. Is there a second? Is there a second to the motion to deny the request for postponement? Seconded by councilmember shade. Is there any discussion? Councilmember cole.

Cole: I share councilmember morrison's concerns about the neighborhood and the complexity of the zoning and flum regulations that we passed and all that they put into them, and I was all prepared to deny the motion until I heard the testimony by bentley regarding his client. And so I'm not going to support that motion now because I do think that under those extenuating circumstances we need to make a consideration for that.

Mayor Leffingwell: Councilmember riley.

Riley: Can I just ask a question. The main question to me in considering a postponement is is there a realistic possibility of further discussions between the neighborhood and the applicant that could lead towards a mutually agreeable out come. In other words, we will be accomplishing anything? We will be moving this ball forward potentially allowing negotiations to take place that could lead to a resolution or discussion. Is it your sense that that postponement might allow for some further discussions with the applicant that could result in a positive out come?

No, because again we think his ultimate goal is get up zone to go high density and we're totally opposed to that. Why would he want a postponement unless that was his goal to get upzoning on that property.

Riley: So you don't expect to engage in discussions with the applicant?

I'm sorry.

Riley: So you don't expect to engage in further discussions with the applicant.

We're definitely open to further discussion about a pocket park, but let's get the flum issue settled and

then let's talk about a pocket park.

Riley: Okay.

Mayor Leffingwell: Anything else?

Riley: If we could have a brief response from the applicant. I mean -- -- you understand that the neighbor is concerned, they feel like there's no reason to talk about this any further, that if you are going to talk about a pocket park, you might as well talk about that even after the -- this request is denied. I mean -- given what you've heard, do you disagree in do you feel like there is a realistic possibility of discussions with the neighborhood if we grant a postponement?

I think from what happened last night and the oak hill [indiscernible] and what we saw on the -- on the matrix of what people wanted, number one, and number two, my client has been real sick and he's had a major operation, that we came to the conclusion that we want to explore a pocket park and we discussed it with you and some other councilmembers today. That's what we want to do. So we would like to have 30 days or -- and if we can do it in 30 days, then let's just go for it, or tonight let's go for upfluming it to a can have and if it's not accomplished in 30 days automatically let it be down, but a conditional overlay on it and just down it to sf-3. I mean we're serious about we want to do. If they are inflexible, then we have to do what we've got to do.

Mayor Leffingwell: Mayor pro tem.

Martinez: I just have to ask a question because what -- it's very concerning to me what I'm hearing, that --

I can't hear you, councilmember.

Martinez: I'm sorry, mr. bentley. I'm going to ask our staff about some of the comments that I'm hear. Tom, it sounds somewhat questionable, I'm not going to use the other word, it sounds questionable to be requesting an upzoning so that it can be donated as a pocket park. I mean I have concerns with that. I don't -- I mean it seems like it's irrelevant if the property owner wants to donate land to create a pocket park, whatever the zoning category is, but I have severe questions this that there will be some value to the owner when they turn it over to the city. And now we have openly been told that's the intention. Are we facing some exposure if we move forward with a zoning case based on the knowledge we've been given?

I don't believe so, councilmember. Obviously the entitlements on a piece of land affect its value, so to the extent you grant more entitlements, the value will go up. But that's an open process. Everyone knows the value of the land will go up so wouldn't be doing anything you could characterize as illegal, you know, it might seem to certain people not totally straightforward if the purpose is to increase the value of the land and then donate it just to increase, for example, a federal income tax deduction, a

charitable deduction, so to speak. It seems playing the process but you couldn't say it's illegal.

Mayor Leffingwell: Mayor pro tem still has the floor.

Martinez: Thank you.

Mayor Leffingwell: Councilmember shade.

Shade: bentley, I'm curious, can you give me an indication of the kind of conversations -- you keep mentioning last night and i understand that the -- that your client is ill, but what's happened between the time that we did this last fall or whenever it was and last night? How many conversations have there been? What's going on with this case?

Councilmember, probably six months ago or maybe a year ago, councilmember sheryl cole asked about a park and I said I'm under the impression it takes 10 acres to make a park. And then someone said 6. And then because I'm on the oak hill planning contact team and we were doing these matrixes, the number 2 request in east oak hill was pocket parks.

Shade: I get that, but here's my specific question. We had a lot of controversy, a lot of meetings in the fall regarding the oak hill neighborhood plan. It went on and on. There is a bunch of confusion and controversy about what occurred here with this particular case. I'm going to say let's just start with this calendar year. Tell me how many times you've met with the neighbors not including last night but between january and last night, how many meetings have you had to discuss a compromise?

I think I met with them last fall, late last fall once or twice.

Shade: Since the neighborhood plan was approved and since we have this obvious controversy here, I'm just trying to get a sense because I didn't want to be insensitive, I understand the importance of your client having just had a serious illness and operation and i don't know the time line of this, but in terms of knowing how hard it is for people to show up and knowing how long this has been teed up here, i guess what you are saying is since the neighborhood planning process ended, there have been no meetings until last night that you talked about a pocket park?

I think you are very good at objection or questioning there, councilmember. First of all, my client has been very strong and he operates a proprietor business. And is also on the contact team. He wasn't there last night because he's sick. He's getting better, but he's not anywhere close to 60%, 70%, 80%. But his health has changed. And this came up and I said we probably should just go ahead and do this. He wasn't very happy last time I told him about it. This morning he got happier. And I said but if we don't get a postponement and this doesn't happen, then we can still build duplexes on that land. Because it's -- I mean if you vote sf-3 we can go duplexes. If it up zoned, we can build includeser to condos and do a much -- cluster condos and do a much better job.

Mayor Leffingwell: I'll remind everyone we're talking solely about the postponement, not the merits of



the case.

Shade: My question did -- he wasn't sick in march. Did you have any meetings in march? No?

What?

Shade: March, april, february, january, no meetings until now?

I wasn't here in march and april.

Shade: That's all I need to do know. [Multiple voices]

his health has changed the attitude of what he wants to do.

Shade: I see. Thank you.

Mayor Leffingwell: Any further discussion to postponement? Councilmember morrison.

Morrison: I just want to remind everybody the case on the agenda is to address the flum and it's to change it back to what it was on the first time around, way back in october. And I hope that our new councilmembers are familiar with the case.

Mayor Leffingwell: And a motion is on the table? To deny. All if favor of the motion to deny say aye. Aye. Any opposed? So that passes -- the motion to deny passes on a 6-1 vote with mayor pro tem martinez voting no. And excuse me, and councilmember cole voting no. Three, okay. The vote is -- all right. With councilmember spelman and mayor pro tem martinez. [Laughter] the vote is 5-2 to deny the postponement with spelman and cole voting no. Cole and martinez voting no. Okay.

It will remain as a discussion item.

Mayor Leffingwell: It will remain as a discussion item.

Mayor and council, I can take up the first discussion item on your agenda, it's item 125. This is case c 14-2009-0031 for the property located at 313 red bird lane. Also known as the moore red bird project. This was continued at your last meeting to this evening. It is a zoning change request from sf 2 to sf-3 zoning. Sf-2 would allow for single-family development and this particular neighborhood planning area, the west congress neighborhood planning area, you are also allowed within the sf-2 category to construct a secondary apartment, special use. So that is in essence a garage apartment on the rear of the property, some limitations on size. The property is about 20,900 square feet and would allow the property under its current zoning to be redeveloped into probably three lots by which you could probably get about five dwelling units on the property right now. The owner and the neighborhood have met and we have discussed issues regarding to the McMANSION REGULATIONS. THIS IS NOT IN the McMansion area. There was not agreement by the neighborhood and the applicant regarding some

additional conditions that spoke to 4 floor to area ratio. [One moment, please, for change in captioners]

it should be dedicated from the center line. That was also the staff recommendation on this case. There is a valid petition that stands at 63 and one half percent. This is only available for your consideration tonight for first reading only. We do not have an ordinance. So a simple majority of four out of three would be required to move the case forward if that is your desire. I believe there are neighborhood people here and the applicant is also here, and he can speak to merits of the case in his discussions with the neighbors. If you have questions I'll be more than happy to answer them at this time.

Mayor Leffingwell: Okay. So I guess we hear now from the applicant.

That's correct.

Mayor Leffingwell: Okay. Mr. Moore.

Thank you, mayor, councilmembers. The last time we were here I got the clear instruction from council to go back and talk with staff, city staff, talk with the neighbors. I do now really appreciate that advice. It's probably shg something I should have done in the very beginning. I got to meet my neighbors. And besides the ones who were representing the neighborhood. So I went knocking on doors and the general response that I got, people were glad that I came by to meet them, and I had people say, well, you know, if you were -- you were going to be our neighbor, we would probably be just fine with it, but there's a general sense of not wanting change. I spoke to six of the nine petitioners. There's a close knit family, so several of the petitioners are part of the same families that sort of settled this area. They've been there for probably 30 something years. I spoke with a mother who is one of the petitioners. I spoke with the son who is one of the petitioners and his wife, and I also spoke with two other guys that were in the neighborhood and I also spoke with a sister of one of the petitioners. So in efforts to try to convince a couple of people to remove their names from the petition, I had a couple of people say that they thought that they might do that. They realize that had they had signed the petition only hearing one side of the issue. And I think I was able to give them some level of comfort just based on my own personality and my intentions. Our intentions are to continue the style of development that we've done in the past, which is to find older homes in Austin and, as I say, we recycle them. We have the properties moved on to empty lots or lots that can hold those and then we rehab them. And in the past we've rented them out. The neighborhood has been very clear about not wanting renters in the neighborhood, and that was not our intent with these particular properties. We had intended on -- it's a huge lot. We thought we would cut the lot in two and move a couple of houses on to each lot, join them in the form of a duplex, and sell them under a condominium regime. Which we felt from an aesthetic and fitting in with the neighborhood that we were doing something that was going to cluster the buildings towards the center of the property so you would keep more open space distance from the neighbors as opposed to doing something with separate garage apartments and the like. So we thought we were doing something or we were asking for the zoning that would enable us to have that option. [ Buzzer sounds ] everybody has been very cordial and respectful throughout the whole process. City staff has been very, very helpful. And I've just sort of encouraged all of those neighbors to come down and visit with the city staff. I didn't go in heavy handed trying to really convince people that they should vote OUR!! Your time has

expired. Okay. We have several people signed up to speak. Andrea mccartney signed up and is donating time to mary and john donaldson. Is john donaldson here? So andrea, you have nine minutes.

Well, in the last -- well, today I have spoken with all the applicants -- not the applicants, I'm sorry, the people that signed the petition to make sure that they all want to distill -- that they didn't want to take their name off. And they still stand by the petition to keep it sf-2. We met with them and asked for an overlay of the McMANSION ORDINANCE AND They didn't like that, so attempting to compromise we asked for a overall of the .4 f.a.r. floor to area ratio. And we told them that we could get that, that we would withdraw our petition. Under the ordinance where it would be divided under into lots, they can build a 4,000 square foot duplex or don dough and a -- owe condo and a 5700 square foot duplex. The surrounding homes are mostly 800 to 1,000 square foot and there's one 2,000 square foot house next door. Under the .4 f.a.r. Conditional overlay that we asked for they can still build a 4,000 square foot and a 3,540 square foot. That's still a lot of square footage for this neighborhood. And it's a reasonable compromise. The other sf-3's, there are a few sf-3's in the neighborhood, and including myself, and we have no plans to subdivide and develop our properties, and we really prefer to live and maintain the current density. So as you can see, we're not really adverse to change, we just want the controlled growth that can fit in to our neighborhood. From what I -- in quoting her in a letter to the zoning department, she sell we will proceed to a reading ON THE 23rd, BUT SHOULD IT Not pass on that reading we won't be unhappy to keep sf-2. So as of july 16th, anyway, they were open to having sf-2. So if they get the zoning change from sf-2 to sf-3, we still stand by our request for a conditional overlay of for gross floor area for the applicant slot, and we will withdraw our petition. If we cannot get the conditional overlay, we would prefer the property stay sf-2. It's our sincere belief that these requests will safeguard current residents while preserving the area's unique flavor. So we ask that you support us with one of the above requests. Any questions?

Mayor Leffingwell: So i understand that we have offered to withdraw your valid petition? 4 floor to area ratio.

Mayor Leffingwell: But is that your -- is that your offer or is that a fall back position if the -- if -- are you saying that the sf-3 is granted, then you would want or you're happy with sf-3 as long as the c.o. is .4?

Correct. 4 we're fine with sf-3. If it the normal duplex ordinance, we're not fine with sf-3.

Mayor Leffingwell: I understand. Thank you. And you left almost five minutes on the clock. Thank you very much. And we have rachel McDANIEL, WALKER McDANIEL AND ROBERT SHAW Signed up against, but not wishing to speak. So that's all the speakers signed up, and we have three minutes for rebuttal by the applicant. Mr. moore.

I just want to give a little context to that request for the conditional overlay. In thinking about what was going on here, we thought, you know, what's fair? You know, so we thought -- and we asked the opponent, we said so would you be willing to put those same conditions on your property? And the two of them said yes, we would. And so then we asked city staff is there a mechanism by which we could do that because we felt like why is this one property being singled out? Singled out to put an overlay on. If

everyone had the same conditions and the same conditional overlay, if there's an ordinance that would keep everybody having the same rules governing their property, then I think that would be a fair situation. But to just take this opportunity, we're asking for a simple zoning change, and to put those kind of -- to put a 4,000 square foot home on those properties would not even make sense, you know? We started off with the intention of doing something that fits in the neighborhood. And we're looking for the fairness of having the same restrictions on our property as everyone else would have. And I think most of the neighbors in the neighborhood would agree with that if you would talk to them, they would say, well, of course, that's fair. So that was the place that we were coming from just thinking that if the time CAME, IF the McMansion ordinance moved in that direction and everybody is under the same restrictions, then I think that would be the fairer situation, but we feel like we started off in our compromise position and not asking for sf-6 or something higher, and we started off with sf-3. So we didn't really have any room to compromise. So we felt like what we're asking for is totally reasonable and we just felt like we needed to stand our ground on that position.

Mayor Leffingwell: I think I heard the answer no in there there are.

You did.

Mayor Leffingwell: Councilmember Spelman.

Spelman: Sir, would you be able to build what you envision on this property 4 floor to area ratio?

Like I said before, we look for old houses that are going to be demolished, and they're in good enough condition to move them. We do that and we've done several of those in the past. We've even taken one, lifted it in the air. It was a small 850 square foot home, lift it had in the air and built a floor underneath it and it looks like it's always been in the neighborhood. So we can't predict what those houses will look like. And you know, when you're trying to -- you just have to look and wait and find something that's suitable.

Spelman: 20,000 Square foot to work with, you're talking about four floor plates --

four if we had the sf-3 zoning. With the current zoning we would have to do five to get any -- the buildings are spread out. You know, you sort of have more driveways going on so it's sort of a busier project.

Spelman: Sure. Hypothetically, if you were to receive sf-3 zoning with -- I realize you're asking for this not to happen, but if we were to 4 floor to area ratio on top of this property, that would allow you to put in 8,000 square foot of houses on this property. Is 8,000 square feet of housing going to be sufficient to meet your needs?

I can't imagine putting 8,000 square feet of house on that property unless there were a couple of three-story buildings. I mean, I know the current zoning allows for -- I think it's 35-foot tall buildings, which I think would just look pretty ridiculous in that neighborhood and the whole idea for us is to create

something that's sellable in that neighborhood. And when you put an oddball thing there, I just think it reduces your chances of selling it. And the other idea was we think we're trying to build something that will attract home buyers, which the neighborhood wanted, and lots of people said families, we want families. We don't want renters. I feel a little funny about that whole thing because all the discussion about the need for housing, the need for rental property. There is a need, but in this case the neighborhood wants the families and so families need bedrooms and they need bathrooms. And an 850 square foot garage apartment does not necessarily give you that. Now, I know there's all different kinds of families, but from what we got from the neighborhood, they're looking for, you know -- one of the petitioners couple with little kids, so I think they're looking for that, you know, that type of homeowner that would think about raising their family there. And we thought the two duplex situation would just be a more manageable for us in our budget restrictions and be a more desirable -- just a small little family community of four different -- what's the term? Lue's? I learned that today.

Spelman: It sounds like what you want is what the neighborhood wants you to have as long as each of those individual units average to 2,000 square feet or less, then you've got 8,000 square feet worth of housing unit to work with. You can put four houses on this property and still stay 4 floor to area ratio. I realize it may feel unjust for you to be restricted to 4 floor to area ratio when your neighbors are not, but it does sound as though that restriction is not really going to get in your way and you're going to be easily underneath that point for restriction anyway.

You're right. You are right. And I think that we -- there's a principle involved. There's a principle of equality, equal rights. We bought a piece of property that we felt like had certain entitlements. We're asking for an upzoning of that that's totally compatible with the neighborhood. And for the neighbors to say, well, we're okay with that, but we want to put restrictions on you. It just doesn't seem right, you know? And like I said, they said they would put those same restrictions on their property, but they would -- there was a couple of suggestions that came up from city staff that I think were not necessarily good ones once we looked into it. But again, that principle of why should we be restricted? No one in the neighborhood would be willing to guarantee us that they won't sell their property and then the person that comes along to buy it won't put up that very same thing that they are thinking we're going to put up?

Spelman: I understand.

They can't give us that guarantee.

Spelman: They refuse to give you that guarantee or --

well, I think that's not a ready process for them to give that guarantee. I think it would have to be it was brought up to do deed restrictions, but I don't think that deed restrictions of that type are enforceable, so is there a mechanism that anyone knows of that would create that fairness in this particular situation? We're listening. We're not opposed to coming up with a solution here. We do want to have some compromise if there's one available to us.

Mayor Leffingwell: Let me just say I understand your argument about fairness, but the fact of the matter

is that zoning is a discretionary power of the city, in this case this council, and there's a state law that says when a valid petition is yield against you -- is filed against you, you will have to get six out of seven votes to get your request approved. So fairness aside, those are the realities of the case. And I'm assuming, guernsey, that this is ready for first reading only. Is that correct?

That's correct, mayor. We do not have an ordinance prepared this evening. So a simple majority of four votes would be sufficient to carry approval on first reading.

Mayor Leffingwell: I understand. But at the end of the day for the final reading, whenever that happens, you're going to have to have six out of seven votes. Councilmember morrison.

Morrison: I did want to mention in response to your question is there a way that everybody can limit THEMSELVES to McMansion. What you're talking about is I think central austin was experiencing some years ago and it's starting to creep out beyond central austin and I've been getting some e-mails from some folks that are saying, hey, we're starting to see some McMANSIONS BEING BUILT Fartsd and fartsd out. -- Farther and farther out. And some people think, oh, people just don't want to see their neighborhoods changed, but the flip side of that is people are invested in the character of their neighborhood and they want to be able to maintain the character of their neighborhood. And when we put the McMANSION -- WHEN THE Council adopted the McMANSION ORDINANCE WITHIN The certain confines of the city, they did knowing -- they did so knowing that it might need to be-- to be expanded to other areas and there's a mechanism in the code for it to be expanded to other areas. And so what I was going to suggest is we could -- your neighborhood, your neighborhood plan area could actually come to the city and ask that we look at EXPANDING the McMansion ordinance to that neighborhood plan area, and then McMansion would apply to all the residential properties in that area. But one possibility would be to go lead that charge and then come back and ask for the upzoning because if the McMANSION IS IN PLACE, Then it is fair and it sounds like your neighbors would be fine with it. I wanted to throw that out as a possibility.

Sure. It just sounds like -- how long did it make the McMANSION ORDINANCE TO Come into play?

Well, it took actually about six months with a lot of hard work and a lot of fast work. But this would not -- i don't know how long it would take. I don't think we've had a neighborhood that's done that yet, have we, greg?

I don't believe we've had a neighborhood come forward asking for an extension to include them in the McMANSION, BUT ASSUMING That we would do the same rules or the same ordinance that applies elsewhere would be fairly easy after proper notice to expand the boundaries of the area by simply changing the map where it would apply.

May I say something?

Mayor Leffingwell: Unless you're asked a question. Councilmember cole.

Cole: moore, you talked about a cluster type development and trying to place -- make a development that fits in with the character of the neighborhood and you've heard that my colleagues are very concerned that you are not doing that. Can you speak to that argument specifically?

I think our taste and the way we thought that this property would be developed while it's in our hands, the idea of building something that would attract families. I mean, I would consider it maybe a starter home. It's not a neighborhood -- it's not a typical neighborhood. What you have here are huge lots. Everybody has huge lots and everyone loves those lots and it's beautiful. People have these big gardens and lots of room. It's kind of hard to see your neighbors and stuff. So it's a nice little community. The idea we had was duplexes, what you're doing is clustering the buildings, the living units, so you have four living units that are tighter in as opposed to when you have garage apartments or separate buildings and you're taking up more of the yard space. , And our rationale was that the clustered buildings would create more yard space, which is in keeping with big yards that are in the neighborhood. So there wouldn't be any issues of setbacks and the ENVELOPE that McMansion talks about because these lots are just big lots and they're not like a typical lot in the inner city that are a quarter of the size of these lots.

Cole: I'm going to reiterate what mayor leffingwell said that there is a valid petition and at the end of the day you would have to have six out of seven votes, and you're aware of some of the neighbor's concerns and , so that -- this is only going today on first reading, and so I would just suggest during the time between when we hear this next that you negotiate further with the neighbors, but I'm going to go ahead and make a motion to approve on first reading the staff recommendation of sf-3.

Mayor Leffingwell: Motion by councilmember cole to close the public hearing and approve staff recommendation on first reading only. Seconded by mayor pro tem.

Martinez: I'd like to request that we leave the public hearing open since the negotiations will continue.

Mayor Leffingwell: Is that okay with the maker do you want to leave the public hearing open?

Cole: Yes.

Mayor Leffingwell: So the motion is to approve staff recommendation, sf-3 on first reading only and the public hearing will be held open. Seconded by the mayor pro tem. Is there any further discussion?  
Councilmember spelman.

Spelman: A question if I could. Greg, a few minutes ago i was searching for an instrument and the adoption of the neighborhood of the McMANSION ORDINANCE WOULD Be one such instrument. A simpler instrument would be to have a deed restriction added to the adjacent -- the properties along that block that are parties to the valid petition as well as mr. moore's property. In your experience is a deed 4 floor to area ratio, would that be enforceable?

It wouldn't typically be one that the city would enter into.

Spelman: Of course not.

It would be on the burden of the property owner that are enjoined in that deed restriction to enforce it. But yes, that would be enforced. The parties would have to be willing parties that would sign it. If all parties sign that deed restriction -- let's say, for instance, you took the petitioners each agreed, they would each have to enter into that agreement and they could all sign it jointly. It could actually be a single restriction just to include multiple lots. That would save the expense of having multiple deed restrictions and that's a possibility.

Is that a difficult, complicated, expensive procedure or could it be done relatively simply?

It could be done relatively simple. They could get a copy of other deed restrictions or may have deed restrictions that already exist that they could mimic. I don't think it would be a terribly expensive proposition.

Spelman: Would you go to office max and get it out of a form book or something like that?

I'm not sure if those -- maybe our legal counsel could address that. There is one other mechanism that you could do is you as council have the ability to naish 80 zoning on private patrol as well and you could direct -- on property property as well and you could direct staff to enact zoning changes on these 4 by a conditional overlay on each of these. That would be more time consuming, it would take more staff time. I'm not advocating that, but I want you to be aware of the options that are before you.

Spelman: Thank you, greg. Mayor, I'd like to ask the opposing speaker a question, if I could.

Mayor Leffingwell: The neighborhood representative?

Spelman: Ma'am, would you be willing to accept on your property in exchange for removing your name off the valid petition and him putting a .4 f.a.r. On his?

Sure, I would. I wanted to -- could i mention one thing real quick?

Mayor Leffingwell: Sure.

Just that we've been talking with neighbors and other neighborhood neighborhood associations and we find there is a desire to extend the McMansion ordinance south. So that's going to be coming in the future. I mean, we're probably going to apply for that. But yeah, I think most people would. Nobody is subdividing anyway. .4 Is a lot on a big lot like that.

Spelman: You get a lot built.



Whereas with leslie, he's dividing it into, you know, two lots or possibly three if it's sf-2.

Spelman: So you would be amenable that suggestion. moore came by with a valid petition and properly languaged, you would be willing to sign it?

Yeah. What you're saying is leslie saying, it's not fair and so to make it fair that we all would be .4. That's something I could bring up with our neighbors. For myself, I would be willing to. I can't speak for everybody.

Spelman: Of course not. If you would be willing to bring it up with your neighbors, I would appreciate that.

Okay.

Spelman: Thanks.

Mayor Leffingwell: Motion on the table to grant the staff recommendation. All in favor say aye.

Aye.

Mayor Leffingwell: All opposed say no.

No.

Mayor Leffingwell: No? Okay. I believe that the vote is four-three in favor with councilmember's riley, morrison and yours truly noting no. -- Voting no. Thank you. That passes on first reading on a four-three vote.

Thank you, mayor and council. Lt me move on to the next item, item number 126. This is case 01 for the properties located at 6102 and 6110 forest hill drive. This is also known as tract ad. These properties are located in the oak hill combined neighborhood planning area. An element of the austin tomorrow comprehensive plan. The request is to change the land designation on the future land use map on these properties from high density single-family to single-family. The planning commission's recommendation in this particular case was to deny a single-family use on 62 -- 6102 for rest hill drive and approve single-family use designation on 6110 forest hills drive. Again, this is a change to the neighborhood plan. Not a zoning change request. These properties were part of the neighborhood oak hill plan that was adopted last year in december. The city council at that time granted the high density single-family and then an amendment, the city manager was instructed to You.

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Okay. Mr. bentley?

[Inaudible - no mic]. [ Laughter ]

the first frame you have here is the apartment and condominiums just adjacent to the property. These are the duplexes that are in front of the property and along the other side of the condominiums that you see and actually go north back toward the junior high school. Here's another one. This property is two acres of land and it is sitting on the edwards recharge zone, 15% impervious cover. So the owner has tried to save these beautiful trees. When the property was purchased they were tagged and identified to save these trees. This is just part of the property. And what we've tried to do initially was to save all these trees and to cluster condominiums in there to save the trees. And to keep the beautiful property as it should be. The neighborhood really thinks it's a beautiful piece of property, so well that one of the neighbors tore down his fence, built a new one, put a gate on to our property and put his barbecue pit. He already likes it as a park. This is the condominiums that are envisioned that could be put there. I think there's 21 or -- 21 or 23. I forgot how many condominiums. But it's within the 15% impervious cover. And it saves the trees. And that's what we're trying to do. Now, -- I'm losing the mic, wasn't it? Now, this can be done under sf-6 or high density. You have high density right next door if you have duplexes, but if you keep it sf-3, the only thing that economically that property can happen to is duplexes. And it could be cut into nine lots, a duplex per lot, a couple of the lots will be flag lots, and that's the alternative. We've tried to save that property and we want to save the trees and we want to abide by the s.o.s. Ordinance. So if they want duplexes, that's the option. Thank you. [00:09:29]

Mayor Leffingwell: Thank you, mr. bentley. I have on this item six folks signed up to speak, and the first one is chris seksnadder, and donating time is gary (indiscernible), cecelia rodriguez. So chris, you will have up to nine minutes.

Thank you, mayor. Mayor and councilmembers, i would like to read -- this was published in the "austin american-statesman" and it's also currently on a real estate website when they were doing an article on attractive neighborhoods. West creek in south austin offers a true neighborhood where you will see folks out walking their dogs, talking with neighbors on their porch and young couples pushing baby strollers. After school children can ride their bikes along tree-lined streets. People are nice and thoughtful and everyone does their part to keep the community looking nice. And that's the character, true character of west creek and the character that we want to strive to maintain. The amendment that is currently before the council has the backing of city staff. The city staff has recommended, as you've heard already, part of the findings of the city staff back in january of '09 were that this property at 6102 hill forest drive and 6110 lie in environmentally sensitive area where the protection of water quality and other natural features is a priority. The property's current land use of higher density single-family may not sufficiently reflect the environmental sensitivity of the area. So I'll repeat that one. The property's current land use designation of higher density single-family use may not sufficiently reflect the environmental sensitivity of the area. And that is signed by the mayor, january 15th, '09. We are all for preserving trees, as many trees as possible, but we don't think that increasing the density of that property is the way to go about it. Putting more units is not the way to go about it. This -- the planning commission has also voted twice unanimously for the flum designation of 6110 hill forest, which is our primary concern, to be low density -- single-family low density. There's also been a resolution that was sponsored by oak hill association of neighborhoods that supports west creek's position. And I won't read all the whereases, but the final line states, now therefore be it resolved that the oak hill association of neighborhoods supports the west creek association's request to have the site at 6110 hill forest remain single-family low density. And that was signed march 11th, '09 BY JAYSTEIN, Vice-president and secretary of ohan. So we have planning commission, city staff, ohan and west creek all in favor of this current amendment. We don't believe that this high density development would be compatible and keeping in character with the neighborhood as it's been developed so far. The numbers were already given to you about what borders on what side of the property. Specifically on the south and west side there are 12 single-family lots that either abut directly to this property or have a corner touching it. One error in the reading earlier was that the -- on the east side is duplexes. On the east side is a mixture. It's a block -- the east side of hill forest drive is actually a mixture of single-family homes and duplexes. And to the north there is -- it's called hill forest i condominiums, but it's apartment style living which consists of three apartment buildings, four units each, total of 12 units. The difference between that piece of property and the 6110 hill forest is that piece of property, if you could bring that pdf up on the screen, plan. The shaded piece of property you can see it has very little frontage on hill forest, so you don't really see the buildings hardly at all when you're driving by where the property at 6110 has a lot of frontage along hill forest drive. You can see it the unshaded area below the shaded area. The orange line, what that is indicated to represent is the how traffic backs up during rush hour -- during school rush hour. The large shaded area up to the right-hand corner of this site plan is where patton elementary is located so you can see the close proximity to a public school. That orange line is how typically how far the traffic backs up. And I've got some photos

if you could roll through those. I have about a dozen photos, but he will only give two or three seconds to each, that I took during rush hour in the morning. And that is definitely a concern of ours if you increase this to -- if it's allowed to be increased to high density, that's just going to dump a whole lot more traffic right on to this relatively short block. You can roll through them pretty quickly there if you would. That's all you've got up there? Hit that arrow down at the bottom of your screen and roll through those just real quickly. There's only like 12 of them. Just quickly so they can see. This is looking back from patton elementary back towards somerset drive, which is the drive, you can see the families walking their kids to school and there's one photo in particular here, that shows you backing all the way down to somerset drive, which is the next block over. The hill forest property that we're talking about is about halfway down on the block here, on this block on the rit-hand side. Let's see. I believe at this time that's all I have, and just to restate our point that west creek supports the current amendment to change the flum designation of 6110 hill forest back to low density single-family. Thank you. [00:16:38]

Mayor Leffingwell: Thank you. Next speaker is sandra balldrij. Sandra? And christie gaterson, are you here? So sandy, you will have six minutes.

Sandy balance drij, I'm here tonight as a resident of west creek. I have the utmost respect for mr. bomar. He's truly a southern gentleman, but this is just a piece of property that's in the wrong spot for what he wants to do with it. We have no mass transportation in the west creek neighborhood. Adding a high density development to a single-family residence area with no means of mass transportation and no amenities is just not part of what we bought into this community for. If this were on the fringes of the neighborhood as opposed to right in the heart of it, I can see extending mixed use for a higher density, but this truly is in the heart of the whole neighborhood. So I would encourage council to go back to what the original flum that was passed in october stated, which was that 6110 have low density on it. 6102 Was constructed long before any of the zoning regulations was required for this area. So I just ask that you send it back to where it was in october. Thank you. Any scwez in.

I have one -- any questions?

I have one.

Mayor Leffingwell: Just to make sure I'm clear on this, the staff and planning commission recommendation was to deny single-family on 6102 and approve it on 6110. Is that what you concur with?

Yes, sir. The existing 12 unit apartment complex is at 6102, and we have no desire to make that owner tear that down.

Mayor Leffingwell: That's what I thought you meant. Thank you. bentley, you have three minutes for rebuttal.

Well, first of all, the whole west creek subdivision was formed out of this ranch where this home was. And still is. Those trees have been there and growing and it's a beautiful tract of land. As far as the

traffic, condominiums create less traffic than duplexes. Talk to your transportation department. These people, a lot of them are retired people that move into condominiums. A lot of them work from their offices from the condominiums. Duplexes are not owned by the people who live in them. They're renters. If this is what west creek wants, then that's fine. I mean, you know, the owner is sick and he's had an operation and he's tired of fighting. And if it comes to just building duplexes in there, that could happen. But it would be a travesty. Because I developed part of barton hills, glen cliff, which is behind barton hills school. But you know, we'll go with the council, but it just makes good sense. Good planning sense, good ecological sense, good environmental sense to just upgrade that to some cluster condominiums that can be built in there. And go for it. Thank you. [00:20:45]

Spelman: Mr. bentley.

Mayor Leffingwell: Councilmember spelman.

Spelman: How big is the lot in question, mickey?

Two acres.

Spelman: And you're saying you could subdivide that in such a way you could get eight duplexes in it, nine duplexes?

Nine duplexes.

Spelman: Okay. How many units is your client considering putting in if you did have this thing zoned for high density?

If you had upzoned to high density?

Spelman: Yeah.

You could put in 21 or 23 condos because they're two story. And the garages would be underneath and it just makes better sense. And you would stay within the 15% impervious cover. You would have less roads in there because you're clustering two and three of those together. It's just a better -- it's a better way to develop.

Spelman: Would he restrict himself to 18 units?

18 -- I'm saying that the architects say 21 and 23. You know, I -- I'm not an architect or anything. But I mean, it could go to 18 -- I mean, 18 condos in there would be great. But they still would have to be clustered, councilmember.

Spelman: I understand. All I'm saying is from your point of view, if this were zoned high density, you could get up to 22 or 23. The neighborhood is concerned about the look and feel, but I think they're also

concerned about just the sheer number of households that you have on that property. And if you think you could get 18 households on that property by cutting it up into the smallest possible pieces and putting duplexes on it, would you be willing to restrict yourself to 18 households, 18 living units on the property even though you could get more?

I think my client would do that.

Spelman: You would be better off that way than you would be with duplexes.

I would vote for that personally. I mean, I haven't talked to my client, but I could convince my client to do that. But it -- it would be a better development doing it that way than it would be putting duplexes in there.

Spelman: Thank you. [00:23:02]

Mayor Leffingwell: And since this is a request for a flum change, it's not a zoning case, I'd like for the attorney to weigh in on the feasibility of something like that.

Well, the flum is part of the neighborhood plan. And the law is clear that -- I'm sorry, the flum is part of the neighborhood plan and the neighborhood plan is part of the comprehensive plan. And the law is clear that comprehensive plans are not supposed to reach the level of specificity of zoning. State law anticipates a broader plan and the detail is handled at the zoning level. So it would be questionable to have that kind of specificity as part of the flum.

Mayor Leffingwell: Yeah. I think it's been said before that the flum is the plan and the zoning is the law. So --

mayor, can I ask the attorney a question?

Mayor Leffingwell: Go ahead, mr. bentley.

Can you -- if you put a conditional overlay, that would come out of zoning?

Yes.

Okay. Thank you.

Martinez: Mayor?

Mayor Leffingwell: Mayor pro tem.

Martinez: Tom, if we end up bringing this back to its original flum position of single-family low density, it

doesn't preclude a future zoning case coming back with the contemplated?

Well, again, zoning must be consistent with the exren self plan. So -- with the comprehensive plan. So once you put a certain designation on the flum, the zoning is limited by that designation. I would have to look to greg to say if -- the flum designation that's being contemplated would allow bentley wants to do.

Martinez: bently or the owner could come back sometime after the anniversary of the adoption of the plan and then i believe in that february there's a window if which since we're west of 35 the owner could come back and make a request to change the future land use map. At the same time they could ask for a zoning change to a different zoning district. So yes, they could, not right away. They would have to wait a period of time that would probably take you to, i guess, 2010. February might be the first time where they could actually come back and make a request. Unless the neighborhood neighborhood planning contact team would like to sponsor an amendment to the future land use map, they have the ability to initiate that earlier.

Martinez: So there is an opportunity to come back. It may take until beyond the anniversary date if the neighborhood contact team doesn't want to make a change to the flum. [00:26:00]

That's correct, mayor pro tem.

Mayor Leffingwell: Councilmember morrison.

Morrison: guernsey, I have a question for you. This is really sort of trying to go back to our original intent, I think council's original intent got changed. So I'm trying to recreate that whole wonderful fall of oak hill neighborhood planning. And we did have the planning commission recommending this low density, is that correct, and the neighborhood plan contact team?

I believe that is correct. I know that staff recommended basically what we're recommending now. And at the council vote it was not the same, which kind of brings us back to our point where we're at today. So the recommendations that you have are similar to those that were being considered I guess back in december of '08.

Morrison: Right. I think I remember -- i still have them upstairs. I'm sorry, I didn't think to look at it, those big spreadsheets that had all the different -- there were all sorts of ways of cutting the recommendations out. And I think it was pretty consistent except for the owner one.

Yes. I think the owner did represent and did speak to bomar, for the desire of higher density.

Morrison: For a higher density, but all the other groups that were weighing in were for the lower density.

I think some of the neighbors that are here tonight, I think a few of them actually came down and spoke against that and the desire to have single-family as the future land use map designation.



Morrison: Okay. Thank you.

Mayor Leffingwell: Any more questions? Councilmember morrison.

Morrison: I would like to move that we accept the planning commission recommendation.

Mayor Leffingwell: Motion by councilmember morrison. Is is that to close the public hearing also? To close the public hearing and accept the planning commission recommendation. Is there a second? Seconded by councilmember shade. And is there any discussion? All in favor of the motion, say aye.

Aye.

Mayor Leffingwell: Any opposed? Passes on a vote of seven to zero. Guess we're ready for item 129. Mr. guernsey. Councilmember morrison.

Morrison: Before this, I want to explain that one of my staff members has had to recuse herself because of her family owning property in this area, the 200 feet, so it makes me uncomfortable on it, so I'm going to recuse myself from this case.

Mayor Leffingwell: So councilmember morrison will be recused. Is there a valid petition on this case?  
[00:29:07]

There is, mayor.

Mayor Leffingwell: So it's somewhat of an unusual situation, but it's not going to get any better because we're never going to have any more than six votes on this case. So go ahead with the presentation.

Martinez: Mayor, I just wanted to ask legal staff, was legal staff advising councilmember morrison to recuse herself or that just is a personal decision?

That was a personal decision. Legal wasn't consult odd that.

Martinez: Okay. I just wanted to be clear whether or not she was required to.

Our next item is item number 129. This is case number crown 2009-034. At this time I want to jerry rusthoven who is the manager of the zoning section in my department to present this particular case. Thank you. 92-acre tract located at 1112 east the applicant is the city of austin, the property owner is the roman catholic diocese of austin. The request is gr, community commercial conditional overlay on tract 1. And on tract 2 from n.o. Neighborhood office conditional overlay to co. The conditional overlay would restrict both tracts to no more than 2,000 trips a day and would limit tract 1 to prohibit automotive sales, automotive washing, repair and pawn shop uses. The staff recommendation is recommended by the zoning and platting commission. [One moment, please, for change in captioners] I agreed that the city would take the case through the process again for those who don't have chance to speak in 2006

an opportunity to discuss their concerns before the council. I requested that the zoning and planning commission initiated a new zoning case which they did in november of last year. I have held two neighborhood meetings at the church's property on may 18. At that meeting I agreed to the conditional overlays. And a couple days later on may 21 I attended a meeting of the copperfield neighborhood association located in the same room on the church's property across jager lane to discuss the zoning case. As I said, the staff recommendation is to approve gr-co and no-co, adding those additional uses. There have been some concerns raised about a restricted covenant on the property as well as on encroachment, on to the church's property, on track two. Those issues can be drained by rick whitley, representing the church. Those are private issues that do not concern the city or the city is not a party to so it is best to leave those issues to him. The reason for the staff recommendation is we believe the appropriate location and two busy streets and neighborhood office is a compatible uses. Religious services used as permitted in any zoning category so the church does not specifically need gr or no zoning. The reason they requested those was to receive the entitlements through the site development regulations. As I said, on tract one we have a brand new sanctuary build by the diocese, on tract two it is vacant, there is a drainage channel that totally surrounds that property, it basically buy sects that trap from the top to jager lane. That drainage channel would obviously restrict the development ability on that tract. That tract has not been platted and there are no restrictions on today. However, when the church came in they would obviously be subject to flood plan and environmental regulations. As I said, we have a valid petition of 42%. Since the valid petition has come in, we have received additional names submitted this morning. We received seven more names from her, we have not had an opportunity to verify if those addresses are within the petition area. Also, the church has sent out a letter to all the people who signed the petition, trying to clarify the situation and requesting they take their name off if they chose to do so. I received a call or e-mail from six people asking to have their names removed from the petition. Three of those people are on petition and would like to have their names removed, however will still remain valid at over right near 40%. I think there may possibly have been some confusion about the petition. Several people who signed in opposition are in fact, members of the congregation of the church, I believe they may have believed they were supporting the church when they signed the petition, however, I'm not sure. We do have a letter of support from the copperfield neighborhood organization, the cno who supports the zoning case. We have some members representing the diocese and the parish who are here to speak in favor of the case. We also have some folks in opposition. And mayor, if I could point out, the folks in opposition I believe there was a little bit of confusion about the sign up process. They were entering the names of people who signed petition in the lobby, that I believe is why you have quite a few names signed up. However it is my understanding they have one primary speaker who would like to have time donated from two other people and that will be the only speaker in opposition. And we have people from the church and the copperfield neighborhood organization here to speak in support. I'm available if you have any questions. [00:36:32]

Right now, I'm showing 11 people signed up wanting to speak and 82 signed up not wanting to speak. Is that more or less correct?

Yes. And I think that what we will have is we will have a handful of people from the church who want to speak in favor and only one person who wants to speak against, the 82 people were names of people

who have not been here today.

One person signed up to speak against with four people donating time.

I believe that only two of those people are here right now.

Okay. And then there are six people signed up in favor.

That sounds correct.

Okay.

Mayor?

Mayor pro tem.

I appreciate the way you laid that out. As an official member of the congress of new urbanism, i don't remember hearing a planning term of tippy-top. Is that an official new urban planning term? [Laughter] if you look in the planning dictionary, you will find it.

I will have to go look it up we will hear from those in favor and the first speaker is rick whitley.

Good evening, mayor and council members. As jerry mentioned. The church has been part of this neighborhood for almost 20 year, they first brought the tract of land south of the subject site 20 years ago and operated that. In 2004, the property to the north of jager lane become available. Before they purchased the church, months before they purchased the church, they hand delivered a letter, actually sister ann who is here tonight, hand delivered a letter -- in fact, they've been part of the community, as jerry mentioned, the neighborhood has a lot of meetings there. Anyway, so they sent a letter out and they've received no negative responses to the proposed new church facility. Prior to the time they purchased the property, the deed restrictions were legally revised to allow the use of the property as a church. The property was rezoned in october of 2006 and there after the construction began on the new sanction wear building. -- Sanctuary building. Certificates of occupancy were received last fall and the church participates in the regional detention program but the storm water leaving the site adjacent to the sitehat jerry mentioned first goes through an on-site detention pond that is on the church property. The only activity on tract two was to clean brush and debris and trash from the creek area in compliance with city regulations. The city actually commended the parrish's efforts for cleaning up that area. There is a number of folks that have been here throughout the evening. I think most of them have hung in here, if you all would like to stand real quick, we have some folks here in support of the rezoning. The parrish has constructed a beautiful facility in compliance with all city regulations. As you know from your back-up material, the copperfield neighborhood organization whole heartedly supports the approval of the zoning case. The church relied on the city's zoning action in 2006 and proceeded to invest in a significant amount of money to build this facility. We urge to you adopt the staff's recommendation in

this matter. Thank you. [00:40:04]

Mayor Jefferingwell: thank you. Next speaker is John Tran. John Tran. After John will be Ann Naguyan: If you have a preferred order you want to speak in, come up in that order and tell me what your name is and we'll check you off.

Hello. I have some newsletters here, I'm just going to pass these over so you can each have one. My name is Judith Ruder and I'm the planning and communications city chair for the Copperfield neighborhood organization and I've been working very closely with this case for quite a while, all the way back to 2006 when we were just restarting our neighborhood association after there had not been one for about 10 years. Back then, we knew about this case, before when the original case was still active. We were just forming, but we knew about it. There was a sign on the property, you may see a picture of that at some point, a nice, great big sign, bold lettering. I wrote some articles for a newsletter back then that was distributed throughout the neighborhood on foot. In fact, Libby received it, called me and was very upset that a whole page was spent on zoning. In '08, Chancellor Ron Walker from the diocese came and talked with us at a meeting to, again, answer questions. The church was going up, the new facility was going up. The new facility was going up and people would have questions and actually he was very helpful letting us know about that. They were opening on December 6th. Then, in -- I'm sorry. It's been a long night. Then, again, in May, Jerry Rusthoven and Chancellor Ron Walker came back and spoke again, and again answered a lot of questions. Now, we hold our neighborhood meetings, we have been doing this for three years now, we hold them at least for the last two years regularly every other month on the odd month, third Thursday evening at the same location, we've never veered for that, so it is pretty much common knowledge in the neighborhood we're doing. This we put signs up for most of the times we meet, much more consistently lately as volunteerism has become more consistent. We have the newsletters that I handed over, are a couple of newsletters did last year that also talk about the meetings. Also, both of the newsletters have information about this church in them, and for the May 21st meeting, this particular case was on the agenda. It was made public over e-mail to so where around 500 different neighbors. In addition to, again, it being common knowledge and there is a sign letting people know we're having a meeting. At that meeting, after Walker spoke, we took a vote and almost unanimously supported this rezoning case. We are very happy to have the church as our neighbor. Your time is up, you can finish your sentence and conclude or if someone else wants to donate time to you, that's okay. Ann is donating three minutes so you have three more minutes. [00:44:33]

Thank you. I did want to address the valid petition. I question how valid it is. I know there were some people who mean to sign it especially those whose fences encroach on the property that belongs to the church. I'm sure there are others who sincerely believe something terrible is going to happen on that undeveloped piece of property. And from my experience in talking with several of the people, including several who have retracted their names, they were given a great deal of incredibly fabricated information. They're hearing things like the whole undeveloped piece of property is going to be covered in asphalt and tall buildings, which is not going to occur. They're hearing a restaurant could come in there, even with no that could not occur. And they're hearing there is going to be all this traffic because it is all going to go commercial because the church has some hidden agenda to make all this money to

make it commercial. That is not going to happen. They're limited to 2,000 trips or fewer a day and a lot of people who signed that petition don't seem to realize that. And what stood out most was hearing -- this woman came to my door and just wouldn't stop talking so I signed it. And that's about all I have to say. Thank you.

Thank you, Judith. Next speaker.

City members, I am reverend of the holy vietnamese martyrs parish diocese church. A very long day for the council so I will cut my sermon short today, but not on Sunday. My church in the neighborhood for almost 20 years, and we try to be good neighbors and because of numbers of the members has been increasingly so we have to expand our building project, we bought the land across Jager Lane and just build a church and dedicate, we had a dedication last December, so I think that I explain myself it is not a problem for the community and we tried to do good things for the neighbors and the neighborhood. So today I have just one request that the city council can see keeping the zoning that was made by the former city council in 2006 so I like to thank you very much for listen to us. I also thank especially Jerry and Rusthoven, all those who come here to support us and thank you very much. [00:48:16]

Mayor Leffingwell: thank you. One more speaker signed up. John Tran. John Tran does not want to speak. Signed up in favor but not wishing to speak. Ann signed up twice but you don't really get to do that, so you've already donated your time. Okay. Thank you. Pardon?

(Inaudible)

Mayor thank you, I appreciate that. Now we go to Elizabeth who signed up against, and is Robert, are you here, Robert? Okay. Mervin Gerard and Kim Thomas. Is Kim Thomas here? No Kim Thomas. Jorge Vasquez. The rules say that you have to be present to donate your time, so Miss Quinnland you will have nine minutes based on donations Gerard and Mr. Thomas.

Is there somewhere that shows the time that I'm using? Well it is up here, you can't really see it and I can.

A moment and I'll set my watch and I'll look at that. Pardon me Mayor Leffingwell: Would you like me to give you a two-minute warning or something?

I would appreciate that, yes. I am having no luck. We know how long it is going to be because a buzz letter go off.

-- Buzzer will go off. First council meeting, welcome, we're glad to have you as mayor. My introduction to zoning and planning in this zoning case started when I received a letter of trespass from Judith on Copperfield Neighborhood Organization letter head. It accused me of trespassing, it included a survey that had been modified with red ink pen showing my fence to be 14 feet on to the church's property. When in fact, it was within it and there are flags now behind my fence that show that my fence is inside of my property line. I talked to my neighbors and asked to know about this zoning case and what is

being done in this green belt and what the activity was. A gentleman from the city sent me a copy of the notification list. I didn't even know what the notification list was. The original zoning case in 2006, if you look at your packet that begins ci 4-2004-0034, the second page has a list of the zoning uses. In 2006, actually let me do this, sorry. There is zone on tract one, changed to dr. Nothing was changed there, it was sold to another investor who came to the city council and the city council and city staff recommended and approved the change from lr to sf-6. Now, we're talking about the property where the church exists right now. The argument or I should say the basis for recommendation was the proposed zoning should promote consistency and orderly planning would be compatible with surrounding use us because there is single family zoning to the north, south, east and west. Sf-6 was across the street. In 2006, the city contradicted themselves by changing the zoning from sf-6 to gr, so suddenly the argument that sf-6 WAS AN APPROPRIATELY AND Promoted consistency with the neighborhood area, that wasn't appropriate, they wanted it to be gr. But gr zoning, if you look at the notice of public hearing of rezoning from 2009, it's a little different from the zoning case from 2006. I was informed by jerry rusthoven when he called me to say he identified there will have been a notification report, informed me they would stop the building, pulled permits, blah blah. A week later he informed me he was only able to give them temporary occupancy until such time as this case could be repeated. The repeat case, my understanding was that staff approved repeating the indicates, which would have -- the case, which would have been changing the zoning from the 2006 case, the original zoning was sf-6 and dr, however the notice of public hearing we received in high neighborhood was proposed zoning change no-co-2. I accept it, I get gr and no. I opposed it, I get gr-no, it was quite confusing. I asked jerry to explain a little better in the second letter he sent out but there was no mention of any residential zoning, original residential zoning or that the drainage easement existed. Nobody knew it was actually residential in drainage. With the exception of the subject property on copperfield section three. All the lots are bound by a restrictive covenant and it states it with only be house use, land use can only be single family home and only single family building. We are a residential neighborhood. The area that we're discussing 87-acres that is an actual drainage easement. It was a dedicated drainage easement when the platting was done. According to the city ordinance, preliminary site plans are required to have detailed drawings, elevations of detention ponds and drainage easements. The copperfield three section -- you will note the lot number of 23. When the copperfield three section was completed, it did not have a lot number on it so this is simple acreage. On the fema flood plain, it is a designated unnamed tributary it hasn't been studied. It has requested to be studied, however, the city has opted not to have that done. The -- send isn't me documents to study the upstream acreage on tract two, however it was never done. In the 1998 and 2001 storms in austin, we had flooding into the backyards of little properties. The preliminary plan shows in black where the 100 year flood plain is, outside of that they will call it a drainage ho explained to me that is an easement to allow the excess water to saturate into the ground rather than having impervious cover so there would be flooding in the neighborhood. We have consideration for downstream residents whose homes have been bought out. The city mitigation plans for the flood program, they are attempting to sell all the tributaries so that these issues might not come up as often and people might not have to nobody a flood zone above x. If they are in ae, they are going to need flood insurance for their mortgage. On the upper left hand corner of the preliminary plan, it reads that the area within the flood plain, the 100 year flood plain would remain in the drainage easement. Obviously, that dedicated drainage easement is almost completely full of -- a petition asks for

set backs of 100 feet from the creek bed. 25 Feet with vegetation in it, 50% asaid with us, 50% not. For the residential property owners. We request no impervious cover utilities on tract two because it is a drainage easement and it is dedicated. We ask that the city council consider allowing us to make this meeting a first reading so we have an opportunity to meet with the mayor and discuss this case because there is a lot of legal complexities and we have tried to ask for restrictions on tract two for their development plans, however, its owner was inflexible and the dozens of suestions that I made to him, he didn't agree with. So he wouldn't agree to putting them on. The land uses that we would like to permit our residential use, commercial off street park, administration surfaces only for religious use, a cemetery and religious assembly and prohibit all still and accessory uses -- all industrial and accessory uses. I thank you for your time. I'm happy to answer any questions. any questions? [00:59:49]

The city is the applicant and we have no rebuttal been we will answer questions. did I hear something in the discussion about there being a deed restriction on the property?

Yes. It is a private deed restriction that the city is not a party to. There was originally deed restriction with the copperfield association developed in the LATE 70s AND EARLY '80s. It restricted the property to residential uses only. In 2004, an architectural ntrol committee which is further restricted covenant, the entity that could amend the covenant was convened and the church ended up buying a few months later.

There is no deed restriction now?

That's correct.

Mayor leffingwell: okay. Anything else?

Mayor. I wanted to provide a clearer response to council member martinez about council member morrison's recues sal. I wanted to make sure, her office did contact the legal department but we are actually prohibited from advising council members on recuesal issues because it is considered public attorneys providing private legal advice so we redirected her to the integrity office. and what did he say? [Laughter]

I'm not aware.

Mayor leffingwell: okay. I didn't think so. Okay.

Mayor? mayor pro tem.

Based on the calls before us and the restrictions in the zoning category I certainly understand the maybes have some concerns but I don't think they warrant us not moving forward and allowing the church to be granted the requested zoning case, so I'm going to move to close the public hearing and approve staff recommendation on all three readings.

Second. motion by mayor pro tem to close the public hearing and approve staff recommendation on all three readings. Second by council member cole. Is there any further discussion? Hearing none, and valid petition against the case, it will take a unanimous vote to pass on all three readings, and if there is less than that, it will pass on either first and second or first only, depending on how many votes. All in favor, say aye. I believe I counted six ayes. And with council member morrison off the dais and recused, the motion passes on all three readings.

Thank you, mayor and council and I will turn it over to greg guernsey for the final zoning case of the evening. is that the final one?

Just for this evening. Our next scarce item number 130. This is case c14-2009-0044 for the property located at 8002 research boulevard southbound. This is nearing the lamar intersection. This is for a project called the fault. There is a zoning change request from the existing zoning which is general commercial services, mixed use, neighborhood planner, cs-mu-mp combined direct zoning to commercial liquor sales, mixed use neighborhood plan or cs-1-mu-hm combined district zoning. Our planning commission recommendation was to grand the cs-1-mu-mp combined district zoning for this property. with a retail center and the applicant would like to move forward with the development of a night club. Under our ordinance that would be designated as a cocktail lounge. This type of use is permitted by right and would require a conditional use permit. A conditional use permit is a requirement that a site plan has brought forward to our zoning and planning commission. They would consider the approval or denial or approval with conditions of a conditional use permit. You could add additional conditions that may speak to the traffic circulation or additional limitations in hours of operation and those types -- operation and those types of things. It is located in the neighborhood planning area which was adopted by council, the neighborhood plan in april 2004, but this tract was designated for mixed use so a flum change or change to the neighborhood plan would not be required. The property itself is a retail center that includes some auto-related uses, a bingo parlor, a hobby lobby, an industrial supply company and fitness center. To the north of the property auto sales, to the south is more general retail sales and office uses that are zoned cs-mu and gr-mu. To the east there is p-public that would be across the 183. There is the park and ride for capital metro. To the west of this property is an existing shopping center, also zoned cs-mu. At this time, I will pause. In have you any questions, it is a very small tract of land, only about 7400 square feet that takes up a portion of this existing shopping center known as anderson square. before we go to questions, we have a motion by council member riley and second by council member spelman to go past 10:00. All in favor, say aye. Okay, questions for mr. guernsey. Hearing none, do you have anyone signed up to speak on this item?

The applicant's agent is here on behalf of the --

we'll hear from miss glasco.

Very good.

Okay, we will get you to after the applicant.



Good evening, mayor and council members. I'm Alice Glasco representing the applicant. Guernsey just indicated to you, this globing is for -- zoning is approximately 7400 square feet in the existing shopping center. My clients own the entire shopping center, approximately seven acres, which has seven several uses and the largest tenant is a hobby lobby and all the spaces there are currently occupied. The proposed use for this 7,000 square foot space is for a music guernsey indicated that this is just -- it is a two-step process when you have an indoor entertainment use that serves alcohol or a secondary approval is required at a later date once you've obtained the zoning which is a conditional use permit site plan that has to go to the planning commission, so we're here asking for zoning change to allow that next step to be pursued. I'll pause here and respond to questions that might arise from the speakers during my rebuttal. I think that would be the most prudent thing to do given how late it is thank you.

Mayor Jeffingwell: thank you. We will hear from some folks who are seened up against. First is Adam Turner. Welcome. You have three minutes.

Thank you, mayor, mayor pro tem and council members for your time this evening. My name is Adam Turner and -- Adam Turner and I'm president of the Wooten Park Neighborhood Association. If you've ever heard your expression smile through the phone, the five staff member is was able to speak with exhibited that to a tee. They deserve recognition for taking my calls yesterday. Yesterday I conveyed reasons I'm opposed to the zoning change. Increased necessity for APD patrolling, proximity to a gambling association and proximity to a church three blocks away, proximity to 80 family housing units, some multifamily and about 100 apartment units containing families with young children. Proximity to the ranch across the street on the east side of Lamar Boulevard where there was an incident as recent's five months ago for assault and robbery, and finally it is just not in line with our neighborhood values. In addition to those, I would like to tell you about our neighborhood. What we are doing as a community and how this zoning change will impact us. We are working hard towards improving Wooten Park and the elementary as a community with collaboration with Texas Action for Healthy Kids, AASC and Austin Parks and our neighborhood by creating trail and education areas for the children of the elementary. Our hopes is project will enhance the profile of the school and our neighborhood. We are also improving access to reading and entertainment at the library. Council member Morrison had the opportunity to see the enthusiasm of our community when she spoke at the grand opening back in May. The zoning you are being asked to deny conflicts with the retail landscape of the current occupants of this retail center. A very well shopped hobby store found on faith-based values. A parts store that supports many community business. Tire store that helps customers with parents with children in tow get on with their daily lives, and a fitness club that promotes the health and wellness of our neighbors. One of the faults with zoning in general was, once granted, the zoning stays long after the company has come and gone, leaving other places to back fill that could be even more undesirable. Should this establishment fail, the space is open to become a liquor store or even a gentleman's club. Eight out of 10 night clubs fail in the first year. It is akin to ringing a bell, once rung, it is unlikely the tenant will undo that bell. It will change the dynamic of our neighborhood by creating the density in the neighborhood of people in an area more than before, this changing the dynamic of how APD patrols our area now. They will have to send -- if I may finish briefly, please. They will have to send more patrol, subtracting from other areas that need it more and it will increase the need of services and therefore increase the need for more money by the city in a time of extreme budget conservation. Ski that you deny this request for globing for the above

reasons and to help the residents of wooten park retain and improve upon its neighborhood character. Thank you very much for your time. next speaker is damon housey.

My name is david housey, president of the highland neighborhood association and chair of the highland's contact team. I learned about this zoning change by watching my tivo of planning commissions last week, this weekend, and we weren't noticed about it, and the reason that I'm really concerned about this is the intersection that it's at. As most of you know, over here in highland, are forced by the closing of more row street to come up to anderson or research, which is 183, to go west or northwest. And this piece of property is surrounded by intersections that are labeled as dangerous by TxDOT AND BY CITY OF AUSTIN Transportation department. Earlier this month, I met with PEOPLE FROM TxDOT AND WITH peter morris from the city of austin transportation and they agreed that, yes, these intersections are dangerous because of the configuration of them, and they, if they had the money they would do something to make them safer, but the state doesn't have any money and the city doesn't have any money, so we just have to live with them as dangerous for right now. Because they're dangerous, we're concerned about the increase in traffic and the increase in people that have been drinking, driving through these intersections for the safety of our people, since we're forced to go through them. At planning commission, I heard one of the commissioners say that these types of zoning changes, which you see us from my neighborhood coming regularly to oppose, are happening because the slowed economy. And he also stated that he thought they were getting passed because of the slow economy. But until the economy picks up and we can make these intersections safer, I ask that you not put more people that are drinking and driving on them. Thank you.

Mayor leffingwell: thank you. Next speaker is john pluthner. Ken nicole. Is that nickel or nicole? Nickel.

Good evening. My name is ken nickel, the store manager for the hobby lobby. We've been there since 1992 and it's -- we're a christian-based company so this doesn't go along with what do we, and in our lease, it's right there in our lease there should be no liquor licenses in the center. I mean, it is kind of hard to compete with what everybody else has already said so I will make it real short. Our employees are concerned about what is going to happen there. They're already afraid to go out in the evenings to go out in their cars so we walk them out because of the transients we have on the corner out front, the panhandlers that are out there. They work until we run them off and by putting a liquor store, a music venue next door would only increase all those problems. There is a real noise concern with the loud cars raising through the parking lots, the live music which our building actually butts up against that particular one. It is going to create just whole lot more work, I assume we're going to have to pick up the parking lot every morning. And the after hours security is going to need to be increased somehow. I don't know how but somehow it is going to have to be. We already have people out there graffitiing the building after hours and with people drinking, the live music and all the things going on it is going to increase all the trouble there. This particular spot out in front only has 13 parking stalls. So it would overflow into our parking, our close-up parking for our good customers and force them to park way out, you know, 400 feet away. And walk up further than the wal-mart parking lot. And it really just doesn't go along with what we do there, and as long as we've been there, it's never been any liquor stores or any liquor licenses given out. I just don't see it working. I know our employees don't, some customers we talked to feel the same way. Of our customers are women and young children, college students, and

you know, it is not going to be real safe in the evenings with all this going on. That's really all I've got tonight. Any questions? thank you, mr. nickel.

Thank you. last speaker signed up is allan philips.

They covered all the points i will like to make. thank you, mr. philips. Signed up against, not wishing to speak. Rebuttal from miss glasco.

Council members, my rebuttal remarks would start off by stating that, first of all, this is just zoning and the zoning of one of those uses that is two step. The zoning itself does not establish the use, allow the use, a conditional use permit is in place. So the owners of the property understand that it's their responsibility to work closely with all the attendants and that the -- all the tenants and the conditional use permit process would be an opportunity to look at the -- the parking, the ingress and egress and the seven-acre site that is underutilized, parking wise can be restriped and there is something that is up there that shows the existing parking on the seven-acre site with just a few uses. At the site plan stage, you've got to get the zoning in order to pursue those options so it is my client's belief, the owners of the shopping center that are at the time of the conditional use permit, they were work with staff, staff reviews the number of parking space, they look at traffic flow and all other aspects, that is why it is a conditional use permit, you look at how all the issues are addressed regarding all the issues the speakers just raised, those are issues you address in the conditional use permit process to the extent and to demonstrate how you mitigate those issues and absent that part of it, the owners of the shopping center would obviously pursue getting consent from all the tenants and resolving the tenant agreement that they have with hobby lobby, they understand and know that. This would get this use looked at further in the future if you grant this zoning so we seek your report as recommended by the planning commission and city staff. Thank you very much. so is the school proximity, I don't know if it is within limits or not, is that a cup issue?

Those are all the issues you get to demonstrate under the state law and city code regarding the distance from those establishments you have the distance requirement to the extent you're not able to there is a provision that provides for a waiver.

Mayor leffingwell: okay. Any more questions, discussion? Okay, motion to approve. Close the public hearing and approve on all three readings? The planning commission recommendation, second by council member cole. Any discussion? All those in favor, please say aye. Council member morrison.

Sorry, mayor. Briefly I wanted to explain I'm not going to support this motion. I think putting cs-1 zoning in is a big deal and I do hate the thought that the economy is driving this and I think based on our experience last month with how disappointing the cup process is, I'm very hesitant about going down this path and won't be supporting this motion. any more comments? Council member shade?

I'm going to support council member morrison's comments. We're getting in a strange hasn't we've seen a number of these cases. In some cases the case would be made from the -- the agent presenting that it would be better if the plan was already in place and we knew exactly what we were doing with before

voting and in this case it is sort of the opposite, they will have to come back. I'm really uncomfortable with making that kind of a zoning change, because as we said before, that is something that is very hard to undo once it gets changed so I'm going to support your comment. further comments? All those in favor, please say aye. Rise hands, please. All opposed say no. Okay. So the motion passes on a 4-3 vote. So that means it passes on first reading only.

Thank you mayor and council that concludes the zoning cases I can offer this evening. that is plenty, thank you very much.

You're well welcome, mayor.

That bring us to item 135.

Item number 135 is to conduct a public hearing and consider an ordinance amending chapters 25-2 and 25-10 of the city code to authorize home occupation signs on the core transit corridors and future core transit corridors. Some may remember those here earlier in the year. They're coming forward to seek a zoning change because they didn't have the opportunity to advertise a law office, which is a professional office under code, some other issues of living on the property but as a result of that I know council member randi shade had an interest in actually asking if we could change the home occupation ordinance and you council did direct staff to do so so we have brought forward this amendment. The proposed amendment would provide that you could have a home occupation sign on the property and the core transit corridors and future core transit corridors, and i provided for you a map of these particular roadway and I will name some of them. The core transit corridors include anderson lane, burnett ROAD, 38th STREET, GUADALOP, Milk, barton strings road, river side drive. Some future core transit corridors include cameron road, 51st street, east 7th street, slaughter lane, jo llodale road and mesa far west boulevard so these are roadways that are fairly large, of them, if not all of them, are arterials of one form or another. The amendment itself would provide a sign on the property. The sign would be limited to a total of nine square feet and could not exist more than six feet, excuse me, not six feet, let me make sure I've got that right here. Three feet above grade. And I wanted to give you an idea how big the sign would be, so i brought a three by three board just to show you. This is how big of a sign we're talking about. And granted, most of these are arterials, you're probably driving at least 35, 40 miles per hour down these roadways but that is the area we're talking about. Already under code we allow a political sign on the property that would be 36 square feet. Eight feet in height could be placed on a residential lot. Granted, there would be limitations about times before and after and those of you who recently have run for reelection are probably aware of this. Also, we allow real estate signs 12 square feet in height is a six foot high limitation. We do allow currently on the property a three-foot sign that just identifies the property owner's name and address and those are signs that are allowed without a permit on a residential lot. Could be sf-2, sf-1, sf-3 where you might typically find a home occupation use. The most restrictive zoning district we have is an no district. We have three classes of office district but the no district is the most restrictive. It seems being compatible with residential areas. One of the cases we just earlier warding the church, it allows a sign of 35 square feet and six feet in height, which this sign is about 1/4 the size of an no district sign that would be allowed. It is recommended to you by the planning commission and it is ready for all three readings tonight. If you have any questions, I'm

more than happy to answer them and I don't believe we have any speakers here this evening to speak to this item. nobody signed up. Any questions? Council member morrison. when you say three feet high, you're talking about from the ground so you can't take that board and put it up on posts.

You could not do this. You might be able to do something like this. but that is three by three and it can only be three feet high.

It is a three-foot sign so there is your nine square feet. and it can be three feet in height as measured from the natural finished grade.

Right, it could be sitting on a burm. it is already three feet high.

Sorry. [Laughter] so that could not be on a post.

This could not be on a post but you could make a sign that could be longer in width. And then that could be sitting in a short post. I was just trying to give you an idea of the scale of the sign.

I appreciate that. I was trying to get a sense and I know those lovely little political signs we see in people's yards, I think they're one and half by two, someone told me that, I don't know which is which. So this is actually three times the square footage.

Yeah, I think they are actually allowed to have a larger sign.

They are allowed to.

But the little ones --

that we all pass out when we're running, the little ones to put in people's yards.

Excuse me. that is all the questions I have. I guess I just would like to comment that when I was thinking thinking about this originally, I was sort of thinking of, you know, like a lawyer hanging out a shingle, you know, which is a little different than -- which is higher, but much less than nine square feet. So that size of that feel as little big to me.

Mayor. mayor pro tem.

Do we have to have three reading on this since it is an ordinance amendment.

Mayor leffingwell: yes.

But if there is concern about the size of the sign --

no, I think what I'm hearing and I share the same concerns is that there is really very few options, if you

will. So if you wanted to put a century 21 sign style as your business sign, you couldn't under this current ordinance.

As long as it is not more than three feet.

I mean style, the sign is four feet high by only one foot by one foot, you couldn't do that under this ordinance.

That's correct. You would be limited by the height limitation.

I understand. What I'm going to do, mayor, and more there is still discussion but I will move to close the public hearing and move to pass the ordinance on first reading with the understanding I would like to see more flexibility and options, not increasing the face print of the sign but increasing options for a higher sign but maybe not a three by three sign. motion by the mayor pro tem. Is there a second? Second by council member morrison.

Mayor, if I may. The posting language is broad enough and I believe the notice is broad enough that if you had the desire right now to increase the height or decrease the sign area, that you could do that now. Certainly we could do first reading and we could provide you some options. Second and third reading, then you could look at those options.

I would prefer we flesh it out in more detailed conversation. it sounds like it is going to be a long discussion. The motion is to close the public hearing and pass on first reading only item 135. Any further discussion? All those in favor, please say aye. It passes on a 7-0 vote.

Thank you, mayor and council. george zapolac regarding the next item he will on the agenda, number 136, and there is additional staff for 137. I believe there is a preferred order, and according to my legal advice we can take up 95 and 137 together, and depending on what happens on those two items, we will have a better idea what to do on 13.

I believe 95 and 136 are related to each other and 137 is the flood plain variance.

Right, but if 95 and 137 are not passed, 136 is going to be a different case. Different situation.

Yes, that's correct.

Mayor and council members, item 136 is a public hearing to consider an appeal of the planning commission's denial of a site plan and item 95 is to consider site specific development regulations for property at the same address. Staff is prepared to present these two items as well as item 137 this evening, however, we've had a request from the applicant to postpone this item to august 27, if you want to take that up issue first. postpone which item, 136?

All three items.

Mayor Jefferingwell: okay. Council members, is there any discussion of this ask or is there a motion?

It is my understanding they're make progress so I make motion to postpone. motion to postpone and second by mayor pro tem. Is pro tem is there any discussion.

Earlier I indicate I had might be okay with a postponement but on further thought and I feel like we have spent a lot of time on this, my sense is we're about as close as we're going to get and so i think based on all the time we spent I would rather move forward at this point so I won't support that motion.

Mayor. mayor pro tem.

I would be open to allowing the one speaker that signed up to go ahead and speak, having come down and waited that long if she is still here. It might even help with contemplating a postponement.

There is a motion on the table regarding a postponement. We will take public comment with regard to the postponement issue only, not with regard to the merits of the case.

I would still like to offer that person the chance to --

I can withdraw the motion.

Is there -- is there any objection withdrawing the motion? The motion to postpone is withdrawn. A second?

Yes.

What I would like to do is ask the person who seemed up in opposition -- signed up in opposition, I would like to to ask that person a question if they're here. all right, mayor pro tem, a point of personal privilege, asking a personal question, please come forward and introduce yourself.

Hi my I can't mayor, council. My name is tiffany russell and I'm here to oppose all three applications. I really don't think that we need to postpone this again. We have been doing this since 2006 and postponing multiple times when we come here and i just think that you guys have spoken about this time and time again and spent many hours on this, I think that the city has, as well. I prepare, I feel like, once a month for this and then nothing ever happens. I think that the owner of 328 hartwood drive has had more than enough time to get this together and present it. Thank you.

Thank you. Okay, so there is no longer a motion to postpone on the table.

I will renew my motion to postpone.

Council member cole makes a motion to postpone items 95, 137 and 136 for how long?

August -- I'm trying to request the remember the question of the applicant. August 27.

Pose postponed to august 27 and i believe second by mayor pro tem. And is there any further discussion or does anyone else want to speak on the issue of postponement? Council member shade. I'm curious and I will put this question out to anyone in the room that can answer this question. Raise your hand in you can, i would like to know what evidence is there that there is progress being made here? Does anybody have an example. Because that is the reason we would grant another postponement is there is some idea that there is some movement. Council members think there isn't really, that we've gotten as far as we can get so in trying to decide how to vote on the pose pointment, I would like to know -- postponement, I would like to know from staff, is there movement or are we going to do this every month, every week? This is, like, what, the fifth postponement.

50 Or sixth. Assistant city attorney. I think at this point staff in conjunction with the law department have put before you an ordinance that attempts to strike a middle ground between the position of the parties, and my understanding is neither of them are particularly happy with it, which perhaps is a sign that it does that to some extent. But we, at this point, have no further solutions to offer and with direction from council we can, of course, modify that ordinance but we have put a good faith effort into crafting a reasonable solution and while we're never adverse to meeting with people and talking with people and listening to concerns, at this point we've done that extensively and we're not aware of any new angles or new solutions that could be developed at this point.

And did get an e-mail from rodriguez, anything to add that has changed since the last postponement?

Good evening, mayor and council members. The answer, the short answer is yes, and just even prior to this moment earlier today brent lloyd and I among others were discussed about the next meeting that we're scheduling to tweak and address further issues and possible changes to the ordinance that is presented before council. So I would submit to you that there is still progress being made and that we're still working toward a resolution. lloyd, do you have knowing respond to that? It sounded like there isn't really --

I was asked if I would be willing to meet with rodriguez and his representatives and the answer to that is, of course, yes. I think a hallmark of staff's conduct is a willingness to meet with everybody but the question whether such a meeting would be productive is another one and i answered that a moment ago when I said we have done everything we know to do in terms of putting together a potential solution for you and there are no new facts, no new angles in terms of writing a regulatory ordinance that we're aware of that could inform our work any further.

And the speaker who spoke just prior has opinion preparing for this every month and you see no changes or no reason to -- you're po popossed to the postponement. Okay, thank you. Another party you want to -- go ahead and let you --



thank you, council member. Frank fuentes I i am a friend of mr. rodriguez. The issue here is some of the requirements in the ordinance that quite honestly we feel that we might not be able to meet -- when I say we, I'm talking about rodriguez and specifically the letter, it is going to cost him almost \$50,000 to roll the dice to see if he can get it. And if he doesn't get it, then it brings us back to the table of not finding a solution so we're hoping we can continue to discuss that particular issue so that we can at the end find a solution that is reasonable for stock split the city and reasonable for mr. rodriguez. That is the real issue.

But that has been the issue for the entire time about that cost of having that. At least several of these postponements, at least the last three that I can recall. I mean, that is a point of no ability to come to an agreement it sounds like. I mean, and that we can postpone and postpone by the sides aren't moving.

I understand.

And if that is the case, i think I'm going say let's have the -- I'm not going to support a postponement.

I understand.

But thank you, I appreciate it.

Anything further? Ready to vote? All in favor of the motion to postpone, say aye. All opposed, say no. The motion to postpone fails on a 4-3 vote. So we will hear the case beginning with -- we'll hear, i believe we can hear 95 and 137 together.

He prepared a presentation that ties all three items together and as a legal matter is an appropriate way to proceed.

The subdivision is east of southwest first street you see running north to south diagonally across the side and north of the lane off the map to the south. The fema map shows this is entirely in the 100-year flood plain and the 25-year fema flood plain and in the critical water quality zone and water transition zone of williamson creek. The prop was subdivided in 1968 and the residents on the property was constructed in 1977. In 2005, construction began without permits on a wall and the fill to the rear of the property and the work includes pillars, 1357 feet fall, an -- 5-foot 5 feet of fill. In response to a complaint by a resident, co-compliance was called to the site and a violation was issued and in 2008 a site plan was filed to obtain approval for the improvements. This attached drawing was prepared by king engineering associated in 2008. A topographic elevations on the 5 feet of fill and show that the center line of the vehicle about 140 feet from the north property boundary. [One moment please for change in captioners]

this site gives a time line on the previous actions on this case, there was an adjustment variance denied, adjustment denied a variance for the fence in 2007 in the environmental board and for for variances in the construction and the water quality zones and for phil they did not act upon the flood plain variance, however, the planning commission denied the variances even though they had been recommended by

the environmental board and because the variances were denied, staff disapproved the site plan and then the applicant appealed and then was heard again in 2008 and the commission upheld the staff's decision at that time and the applicant, then appealed the planning commission's disapproval to -- to you. And so tonight they are asking them to overturn the planning commission's decision which upheld the disapproval of the plan, the fence variable itself is not directly appealable to council member but the cycling is appealable and that's why it is before you so the effect of granting this request will be to approve the site plan. Your options tonight are to up hold the commission's decision, to reverse the commission's decision or to modify the decision. If the appeal of the site plan is granted, then other actions are needed before the owner can receive approval of the construction work and these would include action on the flood plain variance, action related to the fence height and action related to the environmental variances. When this item was before council on april 30th, council directed staff to bring back a site specific ordinance that would -- a mutually decision could be reached, item 95 is the site specific ordinance that was requested, staff was at able to reconcile the preferences of the owner and the neighbors, what is before you as a compromise that would allow a retaining wall and fence among the property line but would require substantial shall modifications to the existing structure in order to reduce the flood plain and environmental impacts, as drafted the proposed ordinance states if fill would exceed five feet in height, it is presently 7 feet and the wall will not exceed 6 feet in height it is currently 8 feet at highest point and the fence on top of the wall cannot exceed five and a half feet which is a minimum required for a building code for a railing adjacent to a vertical drop off along the side property line the height could be above 6 feet above the ground surface, the pillars would be allowed at six feet above the wall and there are currently -- and they are currently 13 and a half feet. And the -- the ordinance also require that is an open fencing material replace the solid masonry wall along the side property lines. The illustrations show graphically how this ordinance would impact the -- property. This is a drawing showing the view from the west property line. The existing fence and retaining wall the -- the ordinance would reduce the height of the retaining wall and require that portions of the wall be replaced by a rod iron fence. This is a view from the rear property line showing the current conditions, and this is how it would appear as reduced according to the regulations in the ordinance. That concludes my presentation. I will be glad to answer any questions.

Questions? Councilmember spelman.

One of the most controversial, at least from the applicant's point of view, part of the ordinance that we are discussing is the requirement that he go to fema and apply for a change of the map, a flood plain map. Could you comment on whether this is -- is this a city policy? The this a federal requirement? Who motivates that as being part of this ordinance.

I would like to ask kevin shunt from watershed protection to respond to that question.

Yes, kevin shunk from watershed production. The requirement for this development to have a federal development fema match provision because the development is in a 25 year flood plain and does cause increase in the 100 year flood plain and the code requires the map provision from fema.

You are saying the code, you mean city of austin land development code requires that.

Correct.

But there have been other cases of this sort where we required the applicant to go to -- applicant to go to fema and get a map in the past.

We have a requirement where people are to get fema map provisions, there are a variety of reasons, there have been times in the past of water development has increased water surface elevation, not necessarily impacting properties but causing increase and they were required to do that as well.

To your knowledge, were there any cases where there are construction had made a change in flood plain and then been required to go to the city to go to fema and get a change in the map, have any of those requirements been waived?

Not to my knowledge.

So basically if you change the flood plain you go to fema and get a map and that's the way city policy has been and there are no waivers to that would policy as far as you know?

Correct,.

Can you explain what is required in getting a change in the map by fema.

What is required of getting it changed, essentially a map application to fema basically serves two purposes. One purpose is to make sure that the actual map, the drawing of the flood plain is correct and updated. The second purpose is to ensure that the engineering that goes into creating that map and the associated water service elevations is technically accurate, it is technically sound and it is according to fema's minimum standards.

So if I were the applicant in this case, what would I have to do? I would have to file -- I would have to get an engineer's opinion, a survey?

Essentially an engineering study would need to be prepared, which one has already been prepared for the development application. We have reviewed that engineering study. You would file application with fema for letter of provision, there is application fee of \$4,800, submit application and engineering study to fema. They typically provide comments back in order to request some changes, applicant would re-submit until a point in time that fema is in agreement with the technical and mapping issues and upon that time fema will issue a letter of map provision.

A few minutes ago a representative of the applicant was saying this is going to cost \$50,000. In your experiences are we talking about \$50,000, are we talking about \$480,000, probably somewhere in

between? -- \$4,800, Somewhere in between?

Like I think it is difficult to say, the current standing of this application required an engineering study and we have that engineering study. That study itself is a huge step towards what they would be supplying to fema so if there were no changes to the site plan, that study would stand nearly complete, and so then you are looking at application fee, and then the engineering study and then some engineering involved with responding to the comments from fema.

So you probably have to keep it on rotator to make any changes, but generally speaking they have already done the hard work in doing the study in the first place?

Right. Unless there is some revision to what was built. Hence, there would need to be revisions to the hydraulic modeling.

So if the applicant followed this ordinance there would be changes with the wall itself?

Correct.

Would those changes, in your opinion, trigger a requirement for a new engineer study or a substantial revision of the current engineer study, or are they relatively small changes, relative to the effect on the flood plain?

I think the changes as they are currently laid out in the draft specific ordinance would require a change to the engineering study in order to make sure that the study accurately reflected the existing conditions.

Anything else? For staff?

We are are prepared -- again I have a presentation regarding flood plain variance if you would like to hear that now as well.

I guess we are all hearing all three cases at the same time? So -- and I believe all of the speakers are signed up on all three items, too, so go ahead and make your presentation on the flood plain item.

Thank you, mr. mayor. Again this is the flood plain variance request for 328 heartwood, it is located in the williamson creek watershed. This boils down to what the requests are for the development. The code requires that development will not result in additional adverse flooding on other property through the site plan application process and review, the hydraulic model submitted to the city reveals that there is an adverse flooding condition so, therefore, the applicant is requesting a variance to the various code sections that are listed there. In addition, in the line development code it states that variances shall be given -- flood plain variances shall be given only for development that does not result in increased flood height so there would be a request for a variance of that code section. As far as the fema approval the code requires that the fema approval shall be -- shall be given from fema prior to council hearing the variance, so, again, the variance can is for council to hear the variance prior to the fema approval. In

addition, there is requirement for this site that a drainage easement to the limits of the 100 year floods plain the required and so, as a typical flood plain variance, the request is to exclude the building foot print from the drainage easement. Again, the similar view that you saw from the previous presentation. This one shows the flood plains, the dark blue is the 25 year flood plain, and the lighter blue on the outside of that is the 100 year flood plain. You can see that the property is fully within the 25-year flood plain. Again, this is some pictures from the site plan application, existing conditions with the property line in the yellow. There is an existing drainage easement on the rear portion of the property in the blue hatched area. That drainage easement was dedicated at the time of plat, 1968. The red indicates the extent of the wall it was built and, again, it is still 7 and a half feet high behind the wall. There is a view from the rear portion of the rear property line. This is the wall and fence from the western property line. And from the eastern property line. This just is a little higher shot showing the amount of fill behind the retaining wall. Just wanted to touch on a little bit of the flood plain mapping history on this property. Again, I wanted to mention that the subdivision was platted in 1968 and at that time there was a drainage easement dedicated along the rear of these lots or the lots that were along the front of williamson creek. There have been extensive flood plain studies from fema throughout the years. The property itself has been located in a flood plain, in this case, the ten and the 100 year flood plain since 1981 and the house has been located in the flood plain since 1993 and those maps are at the places where they were published with those dates, 1991 and 1993, in addition there are city of austin fully developed flood plains we prepared for williamson creek, additionally it was the master plan process in 1991. In 1991, the property was in the 25 and 100 year flood plain and the house was in the 100 year floods plain. There is a history of flooding in the vicinity of this property. If entire neighborhood has experienced some flooding history. You saw that the maps -- 25 year fully developed flood plain doesn't encompass a large portion of the homes on heartwood in addition to heartwood drive and homes on the opposite side. They are, again, in the flood of october 1998, there was some flooding along this area, 34 homes on heartwood drive were flooded in 1998 and the fire department did evacuate some people along williamson drive, we have documentation of that. In november 2001, again there was flooding, his was approximately a ten to 20 year flood that happened then and there were some have some flood damage. The fema information that i received from fema for our flood insurance claims show 14 properties along heartwood drive have submitted claims for flood insurance and there are two repetitive lost properties on heartwood drive and repetitive lost property is a property that is submitted to flood insurance claims greater than a thousand dollars within a two year period -- repetitive loss properties are a very important piece of information for fema. They indicate obviously homes that are retaining significant flood damage often and they require us to do a lot of research and a lot of documentation on any permits that are given for any of these properties and to insure that we are not increasing that noncompliance. This is a picture at 202 heartwood. This is about 21 lots downstream of the 328 lot, this is in october '98. This is 322 heartwood, about three lots downstream from 328 heartwood. Again, flood damage from the october '98 flood. This was a picture in 2007 -- this is about a two-year flood according our models and the two-year flood comes up to the rear of the property line. You can see the wall there. Just want to talk a little bit about the no adverse impact criteria that the code has. Essentially I broke it up into two components, there is hydraulic impacts and hydrologic impacts. The development increases flood levels of 25 and 100 year floodplains according to the model that the applicant engineer submitted. The increase in 100 floodplain is approximately 600ths of a foot which is approximately three quarters of

an inch, while that increase itself may seem minor since some of the homes along heartwood drive have three to four to five feet in the 100 year floodplain, while that increase does seem minor, it is a significant increase in such that in the historical review of development applications, the city has -- would interpret that increase as an adverse impact and we have not brought adverse impact variances to typically what happens in nose cases, if an applicant submits something with that level of increase, we discuss it with them and they tweak their development design, maybe not encroach so much where that is not an impact in the end and that is an application we can support and in this case the development occurred before the application and the engineering models indicated what already had been constructed. There is private properties upstream, about 57 private properties there affected by this increase, additional public right-of-way is affected, heartwood drive and then south first street which is upstream to the property. These increases extend for about 4,000 feet upstream of 328 heartwood. As far as the hydrologic impacts and other issues that we look at with our engineering review is determining if the development is compensating for the fill in we are very concerned about development that does not compensate for fill. The reason for that is, when we lose floodplain storage, on through the years, then what tends to happen is you see higher peak flow rates and higher surface elevations, so it is very important to retain floodplain storage and a requirement for the models for all development that they compensate for the displacement of the floodplain. A little discussion on the conditions for considering variances as detective in the land development code. The code states that variances can be -- can be considered such that they do not result in increase flood heights and as i spoke previously, this is one of the code sections that they are requesting variance from. Of. Typical floodplain variances we bring to you include, say, a development that encroaches into the floodplain and maybe increases their finish [indiscernible] out of the floodplain but they don't have safe access out and that is one of the requirements for a flood floodplain development you have to be able to walk out of the house to get to a point outside of the floodplain so typically that is one of the variances you hear that we bring to you is one that -- a development that doesn't have safe access and in addition drainage from the a structure is a typical variance we bring to you. We do not bring -- it has not been common and I haven't found examples of development that causes increases in adverse flooding conditions in other properties. That's typically not a variance that we bring because it is typically worked out in a site development review process. There is -- councilmember spelman, you asked about any other properties or developments that have increases in water surface elevation and the houston street condo as well is an example of that. That development caused increases in the water surface elevation, although they were contained within a channel and they didn't impact any -- any structures at all. Yet, they were still required to do the map revision process. Thinking about some of the ramifications of approval of this floodplain variance. Obviously the most significant impact from the engineering staff perspective is -- is that, you know, this development causes increased flood risks to private properties has well as public right-of-way. In addition, the city is parent -- participates in a program by fema called the community rating system and that is a program that fema has to reward communities that go above and beyond the minimum standards of fema and the city of austin does that. One example is our no adverse impact clause. We are currently a level 7 out of a level 10 and what that does for the citizens is it gives citizens in the city 15% discount on flood insurance premiums, there is about 5500 flood insurance policies on the city, when fema does audit on the city, they ask for variance of floodplain variances were given and what sort of variances were given, so one thing they may look at is see say if a city has floodplain of

regulations that are above the minimum standard and that is a good thing and we will give you credit for it, although if you representing you are giving variances too many times to that code, we may not get some of the credit for that -- for going above and beyond the minimum standard and the application could be affected by that. Just in summary, the development causes adverse flooding on other properties and right-of-way. I've discussed that a little bit and the level of the increase, the retaining wall and fill are within an existing drainage easementt has been there since 1968, at the time of the we showed pictures of flooding that happens in the area. The is no hardship condition for the property. In other words, the property has been in use. There is a house there. It has been in use since it has been constructed and we don't see any -- there hasn't been any represented any hardship that needs this wall and the fill needs to be there, and, again, there is some potential impacts to city wide flood insurance policy premiums. The conditions in the draft floodplain ordinance which is included in your packet are three conditions and they all are tied to the release of the site plan permit and that's for the fema approval of the map provision application for the drainage easement to be recorded at the county, and we also need a structural certification of the wall to insure the construction of the wall will with stand the flood forces and won't be damaged. I can answer any questions if you have any. Questio questio ns of staff? So isn't one of the things that you normally evaluate when you are making your decision, to recommend or to deny increased potential for human habitation within the floodplain? Caused by the structure -- i mean it seems like every -- every case we've had has had some reference to that.

Increase habitation?

Yes.

That is another section of the code that essentially says that you can't increase the nonconformity of a structure so if somebody was -- had one building -- two buildings and they are going to repolice it with more conditioned area. so has the structure increased the nonconformity?

Not of the building itself, no. all right. Any more questions? We have several people signed up to speak. brown, stephanie should have three minutes remaining, she only spoke with regard to the issue of postponement. So I will reset the clock for her, tiffany russell. You have three minutes.

They've actually already gone over everything I was going to talk to you guys about. One thing I did want to tell you is that I did go to travis county appraisal district to talk to them about this issue and they did lower my land value because of the impact it was having. I am very afraid that I can't sell my house for the property values in the area because i have a 13 and a half foot wall at the bottom of the property. I just gave him a picture so you can just kind of see when I am standing at the bottom of my property what I actually am living with every day. I know we are going through a drought right now but when it does start raining, we do get water. We are very afraid of this. My flood insurance alone has gone from \$540 a year when i purchased the home to almost \$800 a year and that is just flood insurance. So, you know, this has been very hard on us as owners to call the city, starting in 2006, starting this process, nothing was done for quite some time, until we kept talking to people. Now we are at this point. The wall is already developed. It is already done and they are trying to backtrack and I think for a city that is environmentally concerned and we are trying to be at the forefront of the environmental concerns,

flooding is a major concern, and I think to put all of these other people in danger to let one person -- to allow this person to have their wall because they constructed it without asking, without going to the city, without getting anybody to give them the approval, it shouldn't be allowed. We should not have to pay for this. If this does get approved and I flood and my neighbors flood, we are going to look to hold somebody accountable. Who are we going to hold accountable? Are we going to hold accountable the person who put up the wall? Are we going to -- meaning the construction company because they should have known better? Are we going to hold the owner of the property responsible because they should have done their due diligence just like everybody does if they are adding on to their home for a structure, or do we hold the city accountable because the city passed this and knows there is a major issue. That's what I have to say, thank you. Do you have any questions? Thank you Ms. Russell. Has Ruben Rodriguez signed up. Do you want to speak or do you want to use your three minutes?

Councilmembers, I think there has been a gross mischaracterization of what has transpired because before I began I did consult the city and they told me no permit was needed. In fact, in May of 2006, the city went out to my property and told me that no permit was needed and told me that no violations were needed -- or no violations had occurred. Before I built structure, my neighbors, who are here today, took down their fence in agreement so that I would build this, even after it was completely built, they signed an approval saying that that was fine. So it behooves me to now come here and say that I didn't approach the city. I think it also merits to say that -- and I understand the city is saying that there is zero tolerance, but of -- of any construction here -- but prior to the city coming forward and telling me that there is a violation, the city had told me to get an electrical permit for the fixtures that are now on the wall that they want me to remove and they not only issued the permit, they inspected the permit and they approved the permit, and it was only subsequent to this getting of the permit that this is the city comes and says there is a violation, and it is only after that. Now, my neighbor has built in the same critical quality water zone without a permit. They have built a half a deck, so there has been construction here where staff represents to you there is a zero tolerance. Back even after that, the city went and issued a permit so they could build another half of that deck in the same zero tolerance and they have not been required to go through the hydrology studies and all of the expense that I have been having to go through. Now, the proposals that before you, for example, requires that the entire panels be torn down and be turned down into rod iron fence. This would invade the privacy of I mean, I literally would be looking right into their backdoor deck, window into their bedroom. It would require that I take the piece panel down and I will submit to you that these panels used to exist there and their fence was there and that's part of the fence that went down, so we are doing now things that already existed here. There are other neighbors that have also built -- well, if that is my time, I am willing to answer any questions that council may have. Questions. Eric Googins.

Aaron Googins with King Engineers, we were hired by Rodriguez when he was told by the city he needed to file a site plan to permit the improvements he put on his property. We hired as a sub consultant, sub consultants to do the floodplain analysis that Kevin has summarized for you. A couple of points I want to make -- and I believe the application fee is now \$6,000 for the FEMA application, in addition to that, to comply with the ordinance, the model would have to be redone, the annotation would be different, the modeling would be different, and there is no guaranty that FEMA would approve the loaner. In addition, the letter of map provision, where the line -- the floodplain line is changed would not physically change,



the three quarters of an inch -- the three quarters of an inch elevation that is represented in the model cannot be seen on a one to one thousand scale map, so it would be no physical change to the map. The data, Kevin has said that he has reviewed, staff has reviewed and is comfortable, I believe with the data the modeling, so I am not sure the benefit of going through the process, the map would not be changed and the company that did the modeling as sub consultant to us did the modeling in the watershed and they are using the approved FEMA model so it is the procedure Rodriguez a lot of money and time and with uncertainty with whether or not it will be ultimately approved and the result would probably be no different than the city would be reviewing the model. The model was done indicated three quarters of an inch of the rise at the location which is right at the corner of Rodriguez's fence, that is three quarters of an inch where the flooding prior to if fence being built was over five feet, so we are adding five feet of depth in the 100 year storm event, so I understand the neighborhood is concerned about increase in floodwater but we are talking about where the area would be inundated at five feet and we are raising it approximately three quarters of an inch at the worst location and in some places, the water because of the velocity change along the wall. The wall structurally was designed by a civil engineer and signed and sealed, it was not our company but a different I think the ordinance has a lot of requirements in it that would not serve to significantly improve the situation and have requirements in there that are -- to satisfy portions of the city's code that, again, I am not sure do much for the neighbors, property owners, or to change the situation, and just one other thing I might add -- and Kevin mentioned -- that typically these type of [indiscernible] are not granted. I think most of the councilmembers have been briefed on this not being a typical situation. Rodriguez had known or understood what was going on here, he wouldn't have done it and he has documentation that indicates -- you will have towrope up, Mr. Googins.

Thank you. No more speakers signed up, is there rebuttal? Thirty-six okay. Council -- councilmember Spelman.

I am not everyone sure who the applicant is. Rodriguez is saying he came to the city and asked whether or not he needed to file any paperwork or a site plan and the inspectors said you need to cure the problem with the electrical problem but not cure the problem with the wall. Can somebody explain to me what the heck is going on here? Why would that be something which might actually transpire?

Mayor, councilmember members, Christian Son, code compliance division manager. What we had was we received a complaint in May of 2006 that a fence was being constructed that was too tall. The investigator that went out Rodriguez and took a look at what was being constructed and what she saw at that time was a block fence that, if I go back and look at her notes, when Rodriguez that it was a fence being constructed, it would be no taller than six feet, that when going back and looking at the photographs you can see that it does appear that it's a block fence being constructed on what was the left-hand side, I believe, would be the west side of the house. The investigator talked with Rodriguez and a fence that is being built 6 feet or less does not require a building permit and, planned it didn't need one and case was closed. About 30 days later, our office received a second complaint and I don't remember whether it was due to some changes in assignment or sometimes we will send a second investigator out to look and get a different perspective and then at that time the second investigator went out and saw indeed there was a wall being constructed. This was a bit more than just a fence, so I think that maybe

where some of the confusion may have come in.

Okay. One point was an inspector who went out and said there is a wall, the wall is okay but you need an electrical permit.

I don't believe the code compliance ever dated that the wall was okay. It is our understanding anything over four feet does require city approvals. If you will look back at our notice of violation, we did let rodriguez know the wall would need approvals, the fence would need approvals and i believe that the we had also talked about the fact that if he was going to install electrical, that would need approval, also.

Okay.

It was not independent of the fact that all of the other approvals had to be in place.

My apologies for asking you this, but do you have a date or a document that shows that time where you said you need to get approvals for this thing?

Yes, we do. We do have a chronology and it is -- when you go back, it was may -- may 3rd, 2006 that we received the first complaint. The case was closed on june tend, the investigator went back out -- 30 days later we went back out and began the process rodriguez there were violations that needed to be corrected.

So on june 2nd, your rodriguez notice that the wall was too high and that there were electrical problems as well.

They spoke at that time. The notice wasn't issued until -- it looks like july, the end of july, but at that time we do have documentation that there was a conversation between the owner and the investigator that there were issues, there were violations.

Is a two-month lag between the conversation and the notice given, is that fairly common?

That is not common. Typically we try to get our notices out. I have to look at what happened, that is not common. Typically we try to issue notice within ten days when we discover now, it may be the investigator had to do some research to find out what the extent of the violation is before we issue notice. We want to make sure we have a comprehensive notice when we send it out so there are time delays. Typically if we do investigative work we do give investigators 30 days making that determination prior to sending notice and when we went out we did ask at one point watershed protection for documentation of how much had been done prior to our coming out and it looked like almost three quarters of the wall had been in place prior to code come compliance doing the first investigation on the property.

How is it the watershed protection knew more about the wall than you guys did? They had contact

before.

They had information we had collected on the invest, paragraphs, measurements of the wall and they did back engineering, I guess.

So they hadn't seen it before you guys saw it

you were the first guys from the city who a it on the ground?

Yes, that was on the state.

Thank you.

Councilmember, can I show you a couple of documents that are directly related to the question you just asked?

Sure.

The first document is a little bit difficult to see. You will note the -- the -- on may 11th, the underlined dictation states no violations were found, may 11th, 2006 which I believe was just after they called out to inspect the fence based on a complaint. May 8, I guess I've got the chronology a little bit wrong here, but underlined there does not need a permit. Under notices -- under violations, none, and notices of violation, none, and I believe there is a second -- there is another section that talk about -- well, that's -- that's I believe after the initial complaint. This is the documentation -- the city's documentation. This is not the applicant's documentation.

So you never got a copy of this?

This is -- I don't know when the applicant got a copy of this but I think this reflects his recollection of the discussions, that there were no violations and no permits required.

I may point out that it says here, talked to mr. rodriguez. He is building a wall fence no taller than 6 feet, does not need ha permit. So there is a modifier there, it is not just he doesn't need a permit. He does not need a permit because it is not high enough to be taken.

Point taken, there is a follow up report I will show also where the violation occurs.

Please.

This looks like through june 2nd through june 21st. It does state there is a violation and then on -- that is on june 2nd. On june 21st, it appears that whatever the violation was cured by obtaining the electrical permit which is permit number 0601, et cetera, and it says closed due to voluntary compliance, owner has come plied, so -- complied. So to my client's knowledge, the only permit during this code

enforcement interaction that was required was permit for electrical and the electrical has not been installed, correct me if I am wrong, the majority of the wall had been constructed because the electrical runs the top portion of the wall so the structural construction, i believe, was substantially or fully complete at this time and the only permit that he was -- that was indicated to to him he needed was the electrical permit he pulled and this section was closed due to voluntary compliance.

Does the investigator go out to the site and look at it, did the investigator go actually out to the site and look at it?

I would have to defer to the applicant I wasn't involved in the project at that time.

Can I --

if you were there and can explain what happened, go ahead.

I was not there.

If you can explain what happened, go ahead.

What I was going to say is i think one of the important questions here that we are not asking is, on may the second -- I think may the second is the day of document is what rodriguez told he was constructed in critical water zone and told he was on a floodplain, none of those things were asked, in fact, they basically told him in writing in the documents he basically said, no permit needed. If, in fact, the inspector knew that the improvements were being made in the critical water zone and in the floodplain zone, i think that would have been an important question -- or an important point to point out to rodriguez, you need to stop because there is critical and you need to submit a site plan. That was not done, in fact

they wrote no permit needed. Secondly, when the inspector comes back on june 2nd, he is told all he needs is electrical permit and I also want to respond to the other -- the june 2nd incident that the inspector points out that it wasn't a sign until october the sixth, that's almost four months later that it was assigned and then they start responding not only to height of retaining wall but height of the fence as well. I want to point those things out and I will defer to mr. rodriguez. He is the one who actually spoke to the inspectors.

If I may just share one picture with you. When the first inspector came out in may and I was represented that there was no violations had been -- that I did not need a permit, the fill was sitting on the side of the house and she, herself, took photographs, some of the photographs which have never been produced but I have this one because, as you will see, the reason we took this picture is because of in the corner of the house, one of the trucks damaged it so photographs were taken at that time to reflect that fill was, in fact, going in. Now, the date of the loss is february 4 -- I mean may 4th. This is a check for the insurance company paying for the damage to the roof which corroborates that fill was in the side of the house in may when the inspector came and represented to me that I would not need a permit and that I

was not in any violation, and she would report that. With all due respect, the gentleman here was not there during that inspection. He was not there at the subsequent inspection, where i was told that all I needed to do was to get the electrical permit. And we did get that electrical permit that was later inspected and approved. At no time until after all of that construction was done, then in the late july that I began to get notices that there has been a violation, so I think the time line is important but during this time of construction, I was never told that there was a violation. I was told the opposite and when I was told a permit was needed for the electrical, I did secure that.

Very quickly. I don't want this to drag on any longer than necessary.

I understand.

I am not good for any of this and we all want to go home. But we did -- this wall was designed by a civil engineer and it was -- it was sealed?

Yes, sir.

Okay, so you do have a civil engineer who put his seal on it and, therefore, took responsibility for having -- having this out in the first place. Is that correct?

Well, they did seal it. I don't know the extent of the responsibility that entails, but, yes it was. It was subsequent to me being told that I needed to go through the process and throughout i have told them that it was my intent and it's always been my intent to comply with everything that I am supposed to. I have never tried to side step any rule. In fact, I visited with my neighbors. I visited with the city and there is no other word to say it, I was misled, but once I was told I needed that, I found an engineer that did it and we did it.

Got it. Okay.

Thank you, sir.

Are you done, councilmember? one more iteration. I want to ask a very quick question, do you have any documentation of what exactly your inspector in june wrote in perez wrote in his july report for the applicant to do to cure their wall problem?

We do. We have complete case histories. We have the notice of violation and to add a bit of clarity, there are multiple issues obviously with this, you have fill over four feet. You have a wall that was constructed and then a fence that was constructed on the wall. You have electrical that was installed in the fence and the electrical permit issued -- the approval of that and the inspection watershed protection inspectors, they do all of the electronic tricalinspections we do not as cocode compliance do permitted inspections, so saying because the electrical permit was passed because an approval of everything is incorrect. On -- do have the inspector's note on june 2nd, mind you this is 30 days after the original inspection where the investigator looked at the fence, not the wall, not the electrical and the fence, the

complaint was fence being built too high, 30 days when the investigator went out, he made note -- if I made read, investigator lieu paper rez entered as a result, conducted initial inspection of the property, inspector's exhibits being constructed in the back of the property. The owner changed the grade in the backyard, fence columns are over 7 feet. Spoke with owner rubin rodriguez, explained he was not aware of height limit and advised him of violation, he will lower columns and check with electrical regarding retaining wall so again that is saying we had more investigation to do in regard to the retaining wall.

Which may have been one of the reasons why it took so long to issue the final finding on this.

Correct.

What is the date on that note

june 2nd, 2006.

Thank you, sir.

Yes, sir.

Do we have any other speakers, blear?

Mayor leffingwell: no. Mayor?

Mayor leffingwell: no.

I would like to ask a question, I am losing track of -- you can answer, inspector. All of the different inspections we are doing and all of the different reports and one of them that was shown -- put up on the board it showed, no other permits required.

That was the initial inspection, where the investigator went out and looked at the block construction of a you don't need a permit to construct a fence under 6 feet tall.

In the critical zone you don't -- or the floodplain, you don't?

That is part of the issue. We don't do inspections on -- in regard to that type of information. We would defer to watershed protection. Our investigators are not trained on that, we defer to watershed.

Do you think it can be interpreted when you say nothing else required that the assumption would be that nothing else is required?

I think the conversation was about a 6-foot fence, not a wall. well, yes, but wouldn't matter whether it is a 6-foot fence, or 10-foot fence whether it is in the critical zone or in the floodplain, it would still need a

permit for variance?

I believe so, I believe that is correct. Again, I would have to defer to watershed. all right. We are checking up on that right now. Councilmember riley. rodriquez indicated that there were other projects nearby that neighbors had done that were allowed to proceed and I don't know whether anybody can speak to that, whether -- whether it would be better to hear from a neighbor or hear from -- well, maybe if the investigator can speak to that.

I can speak to, when we were out doing our investigation on rodriquez's wall, we did note at one of the visits that the -- one of the adjoining neighbors was beginning to back fill their property, also, in the facility over four feet. Because that's -- that we refer that over to the environmental inspections group at watershed protection, because the backfill issue, it is not something that we typically will enforce. We do defer to watershed. In regard to decks, I don't -- i don't know that we received any other complaints. If it were a deck that was not over 30 inches where it didn't require a handrail or guardrails you can construct that without a permit, but to the extent that it extends into the critical waterway, I don't know, I am not aware of anything. riley, I guess, did you want to respond to that?

Yes, councilmember riley, in direct response to your question, not only have the neighbors done construction that I mentioned earlier but staff is aware of that. Inspectors are aware of that. I specifically told them. The attorneys are aware of that. I have repeatedly vocalized that many, many times. sean who stood before you and said there is a 0 tolerance and when I specifically asked him why are you told holding me to this standard and the question was have you applied the same standards to my neighbor, and the answer was no. When I asked him, do you intend to apply the same standard to my neighbor, the answer was no; and will you, the answer was again no.

Excuse me. The project that you are talking about was a deck or did it involve a fill.

The deck.

No fill, just a deck?

Right.

The neighbor, again, try to get my bearings, east or west. West to my immediate neighbor has also built an entire room in the back, which is in the critical. The neighbor in front of me two doors down has built an entire extra addition to the back of the house which is all in the critical and all of this, I have made them aware numerous times, and asked why do you require hydrology study, all of this process and not of my neighbors and I have, to this day, never received an answer.

Regarding the personalities at the property to the west, the city approved a permit for an uncovered deck that was the size of 8 feet by 23 feet for that property. It was uncovered. It was just a deck itself and there is -- we -- there is no impact to the floodplain for an uncovered 8-foot by 23-foot deck and city staff is involved in those applications and we -- our staff, the floodplain office provides guidance to the

residential reviewers who are reviewing those applications. Regarding the statements we did rodriquez, he did bring up the permits an we did make the statement that I told him I would investigate whether there were permits given.

Sir, if I can ask a quick -- if everyone in that neighborhood built a deck in their backyard, would it materially affect the floodplain for anybody? Is there -- is a deck the post that holding up the wood on the deck, is that sufficiently to materially affect the floodplain even if everybody in the neighborhood had a deck? am not sure if everybody built -- I mean what type of deck we are talking about, what I can say, because based on this case and the time we put into it is the staff put involvement and we head the assumption that what if everybody did fill and a wall similar to on the property.

That is my next question

what would happen to the floodplain on williamson creek and the increase on water surface elevation are one foot.

If everybody did this it would not be three quarters of an inch but a foot and that would have a very large effect on the fema map, I am assuming?

Correct. Yes.

If I may make a couple of comments with respect to -- two points I would like to raise, one is the construction of the deck is within the critical water quality zone which is a separate issue of the floodplain but would require a variance to build within the water quality zone, if somebody wants to point out that is correct, that no construction allowed in the critical which should allow a variance which would allow a site plan to be filed which would be the same procedure the applicant went through and i think the appropriate answer to a deck or any construction within the floodplain to what the impact is, is we don't know unless we do a study to evaluate it and our client did a study to evaluate it and presented the information is he requesting a variance based on that information, so he has retroactively once aware of the issue, complied with the procedures outlined in the city's land development code so I think the appropriate way to deal with someone doing construction in the floodplain and in the critical is the way our applicant has been asked to proceed and that is do the studies and to file the appropriate variances and applications. I have to say, it does seem to me, to make a statement that one structure has an adverse effect of a floodplain based on engineering study and another structure does not have an adverse effect when there has been no study done is a little puzzling to me. Councilmembers. I think probably, if there is no more -- at the point when there is no more discussion, we should take up in order item number 95, which is the ordinance should be I believe the first -- first to take action on. Is there any interest in that? Councilmember morrison.

This is clearly a very unfortunate situation for rodriquez who would be in a place where he spent money. The problem that I have with all of this is that I have seen over and over and over for years people who get into situations like this because things are done, they are not personalitied permitted andit is very, very difficult to work their way out of them, never have I seen before the council consider a specific,



what is essentially, to me zoning because it's from development regulations which is part of zoning, a specific zoning case just on -- just on specific site development regulations just for one particular property to make everything okay. I have to say that when you are spending thousands and thousands and thousands of dollars on a fence and the inspector, as i understand, they came by and just because they saw one thing and thought that it was okay doesn't mean they are giving their blessing to everything and knowledge of permitting and -- by the construction and the folks that drew up the plans, i have to assume they have some responsibility for that, but the most troubling thing for me is that we would set a precedent to fix things through this special process that I have never seen before in my life, we have the board of adjustments, we have zoning and all of that and I am just really concerned about all of those other folks that I see get into situations like this that it would only, if we are going to do this, why aren't we going to do it for everybody else and then all of a sudden we are adjusting heights and making understand precedented floodplain decisions based on -- on getting into situations like this. I am also concerned because doing this could, not only is it, I think unfair to other folks and feels like special treatment, but could actually raise other people's flood insurance rates, which seems really unfair to do to other folks, so I guess you can tell i can't support these -- these items and with that I would like to make a motion -- if we start with number 95, that we not approve, I guess would be the proper motion, not approve 95. motion by councilmember morrison to not approve item 95. Disapprove. Second by councilmember spelman. Is there any more discussion? And since it is an ordinance, i believe it requires three readings.

Not to disapprove it, motion to disapprove can be done on one vote.

Mayor leffingwell: yes. Obviously. Councilmember shade.

Can our legal office respond to the issue that councilmember morrison has raised with respect to this being unprecedented and give us perspective on that.

I will let brent lloyd speak to that.

Yes, in the preparation of the ordinances that now before you, I was able to identify, i believe, three examples in the past where the council has adopted similar site specific regulations. One of them, the most recent one, I believe was in 2003, and it modified impervious cover regulations applicable to a property. This is definitely somethings that not common and it appears my review of agenda backup, it is more infrequent over the years but it is a device the city has used in the past, i think for even further back it was more frequent, but as an historical matter, that is how it is, so. Does that answer your question?

Thank you. I wanted to ask tom knuckles if he can briefly explain to us, if we vote in favor of this motion, to deny the item, what happens to item 136 and 137? Are they still -- is it still a valid appeal?

Mayor leffingwell: yes. I think even if you deny 95 and rodriquez is still entitled to his appeal, which is number 136, so you could still hear it -- you still would need to have the public hearing. As to what the

effect is, i would defer to brent.

What would be the effect if i deny this item and 136 and hear the appeal and grant the appeal?

If the appeal were to be granted -- if you were to deny the ordinances and grant the appeal you would be perspective approving a site plan that does not comply with current title 25 provisions and you wouldn't be modified title 25 provisions to create rodriguez could comply with. Now, if you were -- I apologize for the complexity of this entire matter, but if you were to adopt both of the ordinances, our recommendation would be that you still deny the appeal because until under the ordinances, until updates are submitted and the modifications are made, the wall is still noncompliant and to grant the appeal on the record would have the effect of essentially blessing a structure that doesn't comply with current code and couldn't comply with the regulations you are adopting until the modifications are are done.

Regardless of what you do staff's recommendation will be and continue to be to deny the appeal. What we contemplate is whether we don't the site specific ordinances that before us now or not and if we don't, then we will more than likely both be appealed down because it really doesn't grant the applicant in --anything, and then what are the options after that, does the applicant have the option to go to court, what do we do? Tear the wall down?

The city will have to proceed with enforcement and whether, you know, the extent -- the likelihood of a court order being issued to have a wall torn down is not something I can speak to but it's -- nor can i say how a court would rule in response to a claim for relief of that nature but the city would have to proceed with enforcement. any further discussion? Motion on the table to disapprove number 35, which is the ordinance has been made and second. All in favor say aye.

Aye.

Any opposed? Motion to deny is approved. Seven-0 vote. And now I will entertain a motion on item number 137 which is the floodplain variance item. Councilmember spelman makes a motion to deny the floodplain variance. Is there a second? Second by councilmember shade. Any discussion of that? All in favor of the motion to deny, say aye.

Aye.

Passes on a seven-zero vote. Item number 136 is the appeal. And I would add to 137 if there is no objection that we also close the public hearing. Okay. knuckles, we have been hearing -- conducting a public hearing for all three of these items at the same time.

Well, I believe we just called up 95 and 137 is my recollection.

Yes.

Which mines you need -- the applicant is entitled to the hearing on number 136 unless he would want to waive that right.

[Indiscernible]

okay. So the public hearing on item number 136, which we -- is the appeal public hearing is open. And I think we've already had a staff report on that item, unless there is something additional you want to say. Okay. So the applicant. You have three minutes.

Mayor, councilmembers, in the interest of moving forward and in the spirit of the temperament, I waive the hearing -- what is the correct term?

I mean technically you are speaking to technically we opened the hearing so you can say I am done, thank you for your time.

Okay.

Take a motion on item number 136. T.

Mr. googins.

Yes, sir, sorry, I was signed up to speak on 136, also. [One moment, please, for change in captioners] I think I understand what he just said but I also think regardless how we vote on this appeal we're more than likely headed to court, either for enforcement or to stop enforcement.

If the council were to vote to approve the appeal, it would have the affect of approving a site plan that watershed denied than would have the result of approving a site plan that doesn't comply with the provisions of title 25, and for that reason, I would advise against that. you have three minute fuss want to speak.

I will take one. We've been given -- the around me corp of engineers since 2005, so everyone in our neighborhood is fully aware of the issues at hand, and I have the letters here if you care to see them, but they are going back to october of 2005. Aisthank you. That is all the speakers signed up to speak on item 136. So do we have a motion on item 136? Council member spelman moved to close the public hearing and deny the appeal is there a second? Second by council member riley. All those in favor, please say aye. Any opposed? That passes on a 7-0 vote. I believe miss brown already no other items on our agenda. Without objection, we're juneed 04 by the clock on the wall.

**End of Council Session Closed Caption Log**